

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION

Case No. 17-md-2804

Judge Dan Aaron

This Document Relates To: Polster

The County of Lake, Ohio v.  
Purdue Pharma L.P., et al.  
Case No. 18-op-45032

The County of Trumbull, Ohio v.  
Purdue Pharma L.P., et al.,  
Case No. 18-op-45079

Track 3 Cases

~~~~~

Remote videotaped deposition of  
GEORGE P. PAVLICH

December 14, 2020  
9:01 a.m.

Renee L. Pellegrino, RPR, CLR  
(Appearing Remotely)

1 REMOTE APPEARANCES:

2 On behalf of the Plaintiffs:

Spangenberg Shibley & Liber

3 PETER H. WEINBERGER, ESQ.

1001 Lakeside Avenue E

4 Suite 1700

Cleveland, Ohio 44114

5 (216) 600-0114

pweinberger@spanglaw.com

6 - and -

Napoli Shkolnik

7 HUNTER SHKOLNIK, ESQ.

270 Munoz Rivera Avenue

8 Hato Rey, Puerto Rico 00918

(212) 397-1000

9 hunter@nsprlaw.com

- and -

10 The Lanier Law Firm

MILDRED CONROY, ESQ.

11 6810 Cypress Creek Parkway

New York, New York 10022

12 (800) 723-3216

mildred.conroy@lanierlawfirm.com

13 - and -

Simmons Hanly Conry

14 LAURA S. FITZPATRICK, ESQ.

112 Madison Avenue, 7th Floor

15 New York, New York 10016-7416

(212) 257-8482

16 lfitzpatrick@simmonsfirm.com

17 On behalf of the Ohio Board of Pharmacy and the  
Witness:

18 Ohio Attorney General's Office

HENRY APPEL, ESQ.

19 30 East Broad Street

16th Floor

20 Columbus, Ohio 43215

(614) 466-8600

21 henry.appel@ohioattorneygeneral.com

22 ~ ~ ~ ~ ~

1 REMOTE APPEARANCES, CONT'D:

2 On behalf of Walmart:

Jones Day

3 JASON Z. ZHOU, ESQ.

77 West Wacker

4 Suite 3500

Chicago, Illinois 60601-1692

5 (312) 269-4097

jzhou@jonesday.com

6 On behalf of Giant Eagle:

7 Marcus & Shapira LLP

ROBERT BARNES, ESQ.

8 One Oxford Centre, 35th Floor

Pittsburgh, Pennsylvania 15219

9 (412) 338-3344

rbarnes@marcus-shapira.com

10 On behalf of CVS Indiana, LLC and CVS Rx Services,  
11 LLC:

Zuckerman Spaeder LLP

12 DANIEL MOYLAN, ESQ.

100 East Pratt Street

13 Suite 1000

Baltimore, Maryland 21202-1031

14 (410) 949-1159

dmoylan@zuckerman.com

15 - and -

Zuckerman Spaeder LLP

16 STEVEN HERMAN, ESQ.

1800 M Street NW

17 Suite 1000

Washington, D.C. 20036-5807

18 (202) 778-1883

sherman@zuckerman.com

19 On behalf of Walgreens:

20 Bartlit Beck

KATHERINE SWIFT, ESQ.

21 54 West Hubbard Street

Chicago, Illinois 60654

22 (312) 494-4410

kate.swift@bartlitbeck.com

23 ~ ~ ~ ~ ~  
24  
25

1 REMOTE APPEARANCES, CONT'D

2 On behalf of Rite-Aid:

Morgan Lewis & Bockius LLP

3 JAMES NORTEY, ESQ.

1000 Louisiana Street, Suite 4000

4 Houston, Texas 77002-5006

(713) 890-5472

5 james.nortey@morganlewis.com

6 ALSO PRESENT:

7 Clint Thomas, Technical Support

Robert Rudis, Videographer

8 Nicole Dehner, Esq., Ohio Board of Pharmacy

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1 THE VIDEOGRAPHER: Good morning.  
2 We are now going on the record at 9:01 a.m.  
3 December 14, 2020. Please note that the  
4 microphones are sensitive and may pick up  
5 whispering and private conversations. Please  
6 mute your microphone whenever possible. Audio  
7 and video recording will continue to take place  
8 unless all parties agree to go off the record.

9 This is media unit one of the video  
10 recorded deposition of George Pavlich taken by  
11 counsel for Defendant in the matter of In Re:  
12 National Prescription Opiate Litigation, filed  
13 in the United States District Court, Northern  
14 District of Ohio, Eastern Division, MDL Number  
15 2804, Case Number 17-md-2804. This deposition  
16 is being held remotely.

17 My name is Robert Rudis from the  
18 firm Veritext Legal Solutions and I am the  
19 videographer. Our court reporter today is  
20 Renee Pellegrino, also from Veritext. I am not  
21 related to any party in this action nor am I  
22 financially interested in the outcome.

23 Counsel and everyone attending  
24 remotely will please now state their  
25 appearances and affiliations for the record.

1 If there are any objections to proceeding,  
2 please state them at the time of your  
3 appearance, beginning with the noticing  
4 attorney.

5 MR. BARNES: Good morning. Robert  
6 Barnes for Giant Eagle.

7 MR. NORTEY: Good morning. This is  
8 James Nortey for Rite-Aid.

9 MR. MOYLAN: Daniel Moylan with  
10 Steve Herman, Zuckerman Spaeder, for CVS.

11 MS. SWIFT: Kate Swift for  
12 Walgreens.

13 MR. ZHOU: Good morning. Jason  
14 Zhou, Jones Day, for Walmart.

15 MR. WEINBERGER: Peter Weinberger  
16 from the Spangenberg firm for the Plaintiffs.

17 MS. CONROY: Mildred Conroy for the  
18 Plaintiffs.

19 THE WITNESS: George Pavlich for  
20 myself.

21 MR. APPEL: Henry Appel. I'm with  
22 the Ohio Attorney General's Office. I'm  
23 representing Mr. Pavlich as a witness. I'm  
24 also representing the interests of the State of  
25 Ohio Board of Pharmacy. And I also have Nicole

1 Dehner on the line. She is in-house counsel  
2 with the Board of Pharmacy.

3 THE VIDEOGRAPHER: I believe that's  
4 it. Will our court reporter please swear in  
5 the witness?

6 THE COURT REPORTER: Due to the  
7 need for this deposition to take place  
8 remotely, will the parties stipulate that the  
9 court reporter may swear in the witness over  
10 virtual videoconference and that the witness  
11 has confirmed that he is, in fact, George  
12 Pavlich?

13 MR. WEINBERGER: Yes.

14 MR. BARNES: Yes for Defendants,  
15 unless one of my colleagues has an objection.

16 GEORGE P. PAVLICH, of lawful age, called  
17 for examination, as provided by the Federal Rules  
18 of Civil Procedure, being by me first duly sworn,  
19 as hereinafter certified, deposed and said as  
20 follows:

21 EXAMINATION OF GEORGE P. PAVLICH

22 BY MR. BARNES:

23 Q. Good morning, Mr. Pavlich.

24 A. Good morning.

25 Q. My name is Robert Barnes. I

1 represent Giant Eagle. Giant Eagle has been  
2 sued, along with four other chain pharmacies,  
3 CVS, Walgreens, Rite-Aid, and Walmart. I may  
4 sometimes refer to the group of us, these five  
5 companies, as the pharmacy Defendants. Is that  
6 okay with you if I use that term? I mean all  
7 five of Giant Eagle, CVS, Walgreens, Rite-Aid  
8 and Walmart. Can we proceed with that  
9 understanding?

10 A. We can.

11 Q. Thank you.

12 Could you please state your full  
13 name, sir, and your current address, city only,  
14 please?

15 A. George Paul Pavlich; 3146  
16 Autumnwood Trail, Poland, Ohio.

17 Q. Mr. Pavlich, do you understand that  
18 you are appearing today pursuant to a notice of  
19 deposition and a subpoena that was served and  
20 accepted by the State Board of Pharmacy on your  
21 behalf?

22 A. I'm aware.

23 Q. And have you received a binder of  
24 exhibits that were shipped directly to your  
25 home?

1           A.       Two boxes.

2           Q.       Two boxes, okay. Have you had an  
3 opportunity to look over those exhibits before  
4 your deposition today?

5           A.       Yes. I opened the two boxes.  
6 There was one big binder and A through L, I  
7 believe, sealed envelopes. I have them here.

8           Q.       Okay. If you could put the binder  
9 in front of you. We'll be going through some of  
10 those exhibits.

11          A.       Here.

12                   -    -    -    -    -

13                   (Thereupon, Deposition Exhibit 1,  
14 Notice of Videotape Deposition of  
15 George Pavlich, was marked for  
16 purposes of identification.)

17                   -    -    -    -    -

18          Q.       Okay. If you flip to Exhibit 1,  
19 please. On the third page there's a notice of  
20 videotape deposition of George Pavlich. Do you  
21 see that? It's been marked Pavlich Exhibit 1.

22          A.       I got it.

23          Q.       And are you testifying today  
24 pursuant to that notice and the subpoena that  
25 was served on the Board of Pharmacy?

1           A.       I am.

2           Q.       You'll see, Mr. Pavlich, that most  
3 of these exhibits have been already marked.  
4 Most of them are marked Edwards with an exhibit  
5 number, and that's because they were used in the  
6 Friday deposition of Trey Edwards, and rather  
7 than remark them, I just decided to use the same  
8 exhibits for your deposition. So when I refer  
9 to an exhibit, if I say Edwards 2, it's because  
10 it was used in Trey Edwards' recent deposition.  
11 Okay?

12          A.       Understood.

13          Q.       Now, Mr. Pavlich, have you ever been  
14 deposed before?

15          A.       Yes.

16          Q.       How many times?

17          A.       One time I remember specifically.

18          Q.       And when was that approximately?

19          A.       It was over the Overholt Pharmacy.

20          Q.       So that was quite a while ago?

21          A.       Well, I retired March 1st, 2012.

22 It was, I believe, in 2011.

23          Q.       Okay. Do you generally recall how  
24 the deposition proceeds? I will ask you  
25 questions. If you would please wait for me to

1 finish my question, make sure that you hear and  
2 understand it. If you don't hear it properly or  
3 don't understand it, please ask me to restate it  
4 or assist you in understanding it; otherwise,  
5 I'll assume that you fully heard the question  
6 and fully understood it and are giving your most  
7 truthful response.

8 Can we agree on that?

9 A. We can agree.

10 Q. Now, besides being deposed, have you  
11 testified in evidentiary hearings or court  
12 proceedings?

13 A. Yes, all courts, federal through  
14 municipal.

15 Q. Approximately how many times have  
16 you testified?

17 A. Oh, hundreds.

18 Q. Okay. And is your -- when was your  
19 most recent court testimony?

20 A. Just prior -- you talking trial or  
21 just --

22 Q. Any court.

23 A. I would say January 2012 was the  
24 last case I was finishing, Evankovich.

25 Q. Evankovich, that was the name of the

1 case?

2 A. Yeah. I believe I was in the court  
3 under some preliminary issues. It could have  
4 been late 2011. I'm not specific.

5 Q. All right. When testifying today,  
6 please make sure to give verbal responses  
7 because the court reporter cannot take down head  
8 nods and things of that nature. If you need a  
9 break at any time, let me know.

10 This is, of course, a remote  
11 deposition due to the current pandemic. If we  
12 have any technical difficulties on anybody's  
13 part, we'll stop and take a break and try and  
14 fix that. Communications other than with your  
15 counsel during this remote deposition are  
16 prohibited.

17 Can you please confirm with me that  
18 you are alone and testifying from your home?

19 A. I'm alone.

20 Q. What did you do to prepare for your  
21 deposition, Mr. Pavlich?

22 A. I briefly went through this big  
23 binder.

24 Q. Did you do so with the assistance of  
25 Mr. Appel, your counsel?

1           A.       No.

2           Q.       Did you talk to Mr. Edwards or  
3       anybody else about your deposition?

4           A.       No.

5           Q.       Do you have an understanding of the  
6       nature of the lawsuit that you're testifying in,  
7       the opioids lawsuit?

8           A.       I have an understanding.

9           Q.       What is your understanding?

10          A.       That multiple pharmacy chains are  
11       being held accountable for opiate dispensings  
12       in excess of what is legitimate in the state of  
13       Ohio.

14          Q.       Did you get that understanding from  
15       news reports?

16          A.       Yes, I did.

17          Q.       Was your understanding in any way  
18       based upon discussions with lawyers for the  
19       counties, Lake and Trumbull County?

20          A.       No.

21          Q.       Can you tell us about your  
22       educational background, Mr. Pavlich, beginning  
23       with college?

24          A.       I graduated from Youngstown State  
25       University in 1974. I went -- I graduated from

1 the DEA academy in October of '84. I was a  
2 Youngstown policeman for ten years, two years  
3 blue, eight years narcotics special  
4 investigation. Went to the Board of Pharmacy  
5 in 1987, and attended National Association of  
6 Drug Diversion Investigator seminars and  
7 classes throughout my career.

8 Q. Okay. Let's back up for a second.

9 What was your degree in from  
10 Youngstown State University in 1974?

11 A. Criminal justice.

12 Q. And did you do any post-undergrad  
13 work at any college or university?

14 A. No.

15 Q. What was your first job out of  
16 Youngstown State in 1974?

17 A. Youngstown Police Department. I  
18 was hired in 1977.

19 Q. Okay. What did you do from '74 to  
20 '77?

21 A. I worked in an aluminum factory as  
22 a laborer.

23 Q. And you were ten years at the  
24 Youngstown Police Department, you said two years  
25 in the blue division?

1           A.       Yes, two years patrol, blue  
2       division.

3           Q.       Speed patrol, is that what you're  
4       referring to?

5           A.       Yeah, patrol car.

6           Q.       Okay. And eight years in the  
7       narcotics branch; is that what you said?

8           A.       Well, just prior to narcotics  
9       division, I went to juvenile division, were a  
10      plain clothes detective down there, and then  
11      went to narcotics, which was called the strike  
12      force special investigation unit, and I was  
13      assigned to that division.

14          Q.       And you were a detective in the  
15      strike force special investigative unit for  
16      eight years?

17          A.       I was a patrolman assigned as a  
18      plain clothes officer working detective-type  
19      cases, investigative.

20          Q.       Were you always a patrolman rank  
21      with the narcotics division --

22          A.       Yes.

23          Q.       -- in that eight years?

24          A.       Yes.

25          Q.       Okay. Now, as a plain clothes

1 patrolman working in that division, did you do  
2 investigations, drug investigations, in the  
3 Youngstown area?

4 A. Yes, most specifically  
5 pharmaceuticals.

6 Q. What county is Youngstown in, sir?

7 A. Mahoning.

8 Q. Was most of your work in Mahoning  
9 County?

10 A. Yes.

11 Q. And what types of pharmaceutical  
12 investigations did you perform while with the  
13 Youngstown Police Department narcotics division?

14 A. Anything specifically related to  
15 prescription/prescriber issues, going into  
16 pharmacies, looking at false prescriptions,  
17 illegal prescriptions, street diversion by  
18 non-health professionals, all of that. I was  
19 pretty much the main guy in that unit that did  
20 that.

21 Q. I see. How many other patrolmen or  
22 detectives were in the unit that worked pharmacy  
23 diversion or pharmaceutical diversion?

24 A. Other than one detective that was  
25 in charge of the unit, we were all patrolmen.

1 They hadn't given us promotional tests for a  
2 long time so we did not reach the rank, but we  
3 were assigned there and there was probably 15  
4 working vice and narcotics.

5 Q. And what types of prescription  
6 diversion cases did you investigate and  
7 prosecute in that role? You said generally  
8 prescriptions and prescriber issues, illegal  
9 prescriptions and street diversion. I was  
10 scribbling notes while you were talking, but I  
11 just want to make sure I fully understand. What  
12 is street diversion of pharmaceuticals? What  
13 are you referring to?

14 A. Well, diversion of a prescription  
15 would be where an individual would obtain a  
16 prescription from a physician and then divert  
17 those prescription drugs to illicit sources, or  
18 create a false prescription off of a legitimate  
19 prescription; a doctor writes 30 tablets of  
20 Percocet and they photocopy it or reproduce it  
21 and take it to pharmacy A, B, C, D, and instead  
22 of filling it once, they fill it four times,  
23 and then they would go out and sell the drugs  
24 or use them themselves.

25 Q. And do you recall in that time frame

1 while you were at the Youngstown Police  
2 Department where your leads came from mostly?  
3 Did you have confidential informants or did you  
4 hear from other sources about these types of  
5 activities?

6 A. I was pretty aggressive in the  
7 street. I had numerous confidential  
8 informants. I would speak with pharmacists  
9 constantly, asking them if they would see  
10 things that were out of -- not the scope of  
11 legitimate medical practice involving a  
12 physician or prescriptions coming in that  
13 looked like they were false, and then I would  
14 investigate.

15 Q. Do you recall some of the company  
16 names for the pharmacists that you dealt with?

17 A. I spoke to pharmacists from  
18 independents to all the chains in Mahoning  
19 County. I also would go into other counties,  
20 but primarily in Mahoning.

21 Q. I gave you the list of names of the  
22 pharmacy Defendants. Would you have worked with  
23 pharmacists from the pharmacy Defendants in that  
24 time period with respect to getting leads for  
25 diversion behavior?

1           A.       Sure, I would have.

2           Q.       Did you find the pharmacists for the  
3       pharmacy Defendants to be cooperative with you  
4       and provide you with leads for investigation of  
5       diversion?

6           A.       Yes, I did.

7           Q.       Were they generally cooperative and  
8       were they interested in stamping out diversion?

9           A.       They were, and if they weren't, I  
10      would take appropriate actions.

11          Q.       Now, you said that you were ten  
12      years with Youngstown Police. That takes you to  
13      1987. You started with the Ohio Board of  
14      Pharmacy in '87?

15          A.       Yes. I had worked with, who then  
16      became the number two man in Columbus, Tim  
17      Benedict. He was assigned as a field agent.  
18      He was a pharmacist, too, in Mahoning County  
19      and multiple other counties, and I had met him  
20      through the course of investigations or -- I  
21      don't know how many years it was, but -- and  
22      through that acquaintance I ended up being  
23      offered a position with the Board of Pharmacy.

24          Q.       And what was the position you took  
25      in 1987 with the board?

1           A.       Field agent. Compliance agent I  
2 think the title officially was.

3           Q.       With what duties? What were your  
4 duties?

5           A.       To investigate, regulate and  
6 inspect all pharmaceuticals, institutions and  
7 facilities and individuals in the state of  
8 Ohio, specifically, though, being assigned to  
9 northeast Ohio.

10          Q.       Which would encompass what counties?

11          A.       Well, when I was first hired, I had  
12 from Ashtabula -- I'm not going to name all the  
13 counties because I can't think of them all.  
14 Ashtabula, Trumbull, Mahoning, Columbiana and  
15 Jefferson County, and straight across to Wayne  
16 and Medina County, excluding Cuyahoga and Lake  
17 County. That was another agent. We only had  
18 like eight field agents.

19          Q.       And were you a field agent with the  
20 board from 1987 until you retired in March of  
21 2012?

22          A.       Yes, but my -- the board had hired  
23 a few more agents in my specific counties  
24 probably in the last six years or eight --  
25 maybe longer. I don't recall. I ended up

1     having Trumbull County, Mahoning County,  
2     Columbiana County and Jefferson County as my  
3     four specific counties that I would conduct  
4     inspections and investigations in, though I was  
5     sent a lot of counties by my supervisor to help  
6     or assist or conduct specific investigations.

7             Q.     Did you assist in Lake County from  
8     time to time?

9             A.     I did.

10            Q.     Did you work with Mr. Trey Edwards,  
11     Agent Trey Edwards, from time to time in Lake  
12     County?

13            A.     Yes. I also trained him.

14            Q.     You mentioned earlier the National  
15     Association of Drug Diversion Investigators.  
16     You said you took some courses with them?

17            A.     Yes. Every year they would have a  
18     national meeting involving -- I don't know how  
19     many states were affiliated with it. They were  
20     all over the United States, from California to  
21     Maine. And they would have a national  
22     conference for like three days, and I would  
23     attend those, and they would give a good  
24     picture of diversion that was happening through  
25     the United States and different aspects of

1 investigations and regulatory compliance. As a  
2 matter of fact, I was named national  
3 investigator in '04, I won that award.

4 Q. And was that for the quality of your  
5 work?

6 A. It was quality and quantity of  
7 investigations involving lots of physicians and  
8 pharmacists and healthcare professionals and  
9 street people.

10 Q. And did you -- you said you trained  
11 Trey Edwards. Did you at some point in time  
12 have those responsibilities to train new agents?

13 A. I pretty much trained everyone.  
14 When I got hired, I was the first of two hired  
15 by Tim Benedict and Bob Cole, my immediate  
16 supervisor, to go out and do things  
17 aggressively.

18 Q. Okay. And besides training agents,  
19 did you also train -- provide training sessions  
20 for members of the board or agents for the board  
21 from time to time?

22 A. Members of the board?

23 Q. Yes.

24 A. Field agents. I trained pretty  
25 much pharmacists to field agents, pretty much

1     taught them all.

2             Q.     Have you ever had anything to do  
3     with the Lake County Narcotics Agency?

4             A.     Anything to do with them other  
5     than, you know, I might have gone up there on a  
6     couple of their cases for insight or  
7     assistance. I know one case I worked with Trey  
8     Edwards was Dr. Peter Franklin and Overholt  
9     Pharmacy. That was pretty much toward the end  
10    of my career. It was a large case.

11            Q.     And in your work as an agent for the  
12    board, doing all those duties you just testified  
13    to, did you need to become familiar with the  
14    Ohio Revised Code and the Ohio Administrative  
15    Code sections that regulate the pharmacy  
16    industry?

17            A.     I did.

18            Q.     Now, you've referenced several times  
19    the Franklin Overholt Pharmacy matter. Was that  
20    a particularly complex matter, a long  
21    investigation?

22            A.     Very complex.

23            Q.     What made it complex?

24            A.     The massiveness of prescribing and  
25    dispensing of opiates.

1           Q.       We'll get into that matter a little  
2 bit later.

3                   I want to just talk to you a little  
4 bit about diversion of pharmaceuticals. What  
5 types -- in your experience, what types of  
6 diversion are there in Ohio with respect to the  
7 diversion of pharmaceuticals? I mean, what --  
8 can you give us some examples of the common  
9 things that you saw and investigated?

10          A.       Well, top of the hill is all  
11 prescriptions must be legitimately prescribed  
12 for a legitimate medical purpose. That would  
13 be the prescriber.

14                   Next would be corresponding  
15 responsibilities to the pharmacists, what is  
16 prescribed by a physician and the pharmacist  
17 has, under Administrative Code 4729-5-30, which  
18 I used commonly in conversations or whatever,  
19 the manner of issuance. Pharmacists should not  
20 take on its face value prescriptions that are  
21 written without thinking of legitimate medical  
22 purpose and corresponding responsibility.

23                   Then next you have people in the  
24 street who would get a legitimate prescription,  
25 legally authorized, and divert it in various

1 fashions and forms, creating multiple copies,  
2 creating their own type of format, signature,  
3 so on and so forth, and then the selling of  
4 those prescriptions or the drugs from the  
5 prescriptions and/or the actual prescription.

6 Q. Okay. You mentioned earlier  
7 prescribers. Did you investigate prescribers  
8 not fulfilling their function? I guess that's  
9 the first thing that you mentioned. That's a  
10 prescriber responsibility to issue the  
11 prescription for a legitimate purpose. Did you  
12 investigate physicians and healthcare  
13 professionals that failed to follow that  
14 obligation?

15 A. More than anyone else at the board.  
16 Approximately -- I'm going to guess -- in my 25  
17 years I investigated which resulted in the  
18 indictment and/or conviction of 90 prescribers.

19 Q. And what were these prescribers,  
20 these 90 prescribers, generally doing?

21 A. Not prescribing to legitimate  
22 medical practice standards.

23 Q. So a lot of prosecutions. Were  
24 those all criminal prosecutions or were some  
25 civil?

1           A.       No. I'm talking criminal  
2 prosecutions in federal and state court. It  
3 was a lot. I was very busy.

4           Q.       And these 90 prescribers or so, did  
5 some of them go to jail for their conduct?

6           A.       Yes.

7           Q.       Where generally did these  
8 investigative leads come from for these 90 or so  
9 prescribers that you prosecuted? How did those  
10 investigations normally start?

11          A.       As I taught younger agents, you  
12 must work the street, you must work the  
13 pharmacies. You work the pharmacies to get  
14 leads from pharmacists. They're there every  
15 day looking at these things. You follow up.  
16 For an example, a bad prescription. You go and  
17 find the person that passed that bad  
18 prescription and then you question them and see  
19 the basis of legitimate medical practice from  
20 the physician to that person.

21          Q.       All right. So it sounds like a lot  
22 of the leads came from pharmacists in the  
23 pharmacies because they were on the front line,  
24 so to speak?

25          A.       I did my best to make friends with

1 all pharmacists and anyone else that I  
2 encountered. I was very straightforward with  
3 everyone. And they would call me, and -- I  
4 would get a lot of phone calls, yes. And to  
5 the best of my ability, I tried to investigate  
6 everything, going after the biggest fires  
7 first, and trickle it on down, if I could, to  
8 small things, but small things a lot of times  
9 led to big things.

10 Q. Do you recall getting or befriending  
11 pharmacists at any of the pharmacy Defendants'  
12 locations, including Giant Eagle?

13 A. Yes.

14 Q. And did they -- did the Giant Eagle  
15 pharmacists provide leads to you that resulted  
16 in prosecutions of bad actors, including doctors  
17 and street-level people?

18 A. All pharmacists did at all the  
19 chains, including independents. I can't be  
20 specific as to what Giant Eagle pharmacists  
21 told me or CVS, but I will tell you I was in  
22 all of the pharmacies, and I would receive 20,  
23 25 calls a day on different things, not only  
24 Ohio Revised Code criminal violations but  
25 administrative things, too, questioning what do

1     you think about this or that. So, you know,  
2     I'm trying to answer you to say pharmacists in  
3     all stores cooperated, and if they didn't  
4     cooperate, I would go to that store and ask  
5     them what their specific issue was with not  
6     reporting something and then I would document  
7     it on an inspection report. If I asked for a  
8     profile, let's say a patient profile or a  
9     physician dispensing profile, and I didn't get  
10    it within a reasonable time, three days, or  
11    immediately, I would go to that store and  
12    confront the responsible pharmacist or  
13    pharmacist on duty and say, "I've requested  
14    this. Where is it?" In 90 -- high 90 percent  
15    of the cases I would get everything I needed  
16    immediately from chains or independents. I'd  
17    have no problems.

18           Q.     I see. So if they didn't respond as  
19    fast as you wanted, you would confront them and  
20    make sure you got what you needed?

21           A.     I would make a personal visit to  
22    that specific location and meet with each  
23    pharmacy, whether it was a chain or an  
24    independent, had a responsible person, it was  
25    called, for the specific terminal distributor

1 license. I would try to meet with them  
2 specifically, but if not, the individual  
3 pharmacist and/or a supervisor for that a lot  
4 of times change.

5 Q. Did the doctors or other subscribers  
6 similarly provide leads to you or was it mostly  
7 from the pharmacists?

8 A. I would get calls from some doctors  
9 as to, Agent Pavlich, I see patients lining up  
10 outside this office. I don't think something  
11 is going on here that's legitimate. I'm in the  
12 same practice building. You might want to look  
13 into this. Or a pharmacist again calling about  
14 what they thought was not legitimate.

15 Q. You referenced a couple of minutes  
16 ago getting 20 to 25 calls a day from  
17 pharmacists not only related to potentially  
18 illegitimate prescriptions but also just calls  
19 about complying with the regulations. Is that  
20 what you said?

21 A. Yeah. 20 to 25 calls from  
22 everywhere, I mean whether it was someone in  
23 the street -- it was related to a lot of  
24 different things. My phone was pretty busy.

25 Q. But would pharmacists call you not

1     only to say, hey, I think we got an illegitimate  
2     script here, but would they call you and ask for  
3     your advice about compliance issues, like how do  
4     I comply with this regulation or that  
5     regulation?

6             A.       Many times, and understand I'm not  
7     a pharmacist, but I was pretty familiar with  
8     administrative and criminal code, so I was the  
9     guy. If they didn't call Columbus, they called  
10    me.

11            Q.       I see. In your 25 years with the  
12    board, Mr. Pavlich, were you able to observe the  
13    forms of diversion changing over time to react  
14    perhaps to law enforcement efforts? Do you  
15    understand my question?

16            A.       I do.

17            Q.       Did the forms of diversion change  
18    over time in your 25 years?

19            A.       Yes. It increased quite a bit from  
20    when I first started from Youngstown Police  
21    Department to when I ended my career.  
22    Increased in a way -- some physicians were just  
23    blatant about it, and some would -- for an  
24    example, a doctor by the name of Orr was  
25    dispensing opiate amphetamine prescriptions for

1 diet out of his office thinking no one is going  
2 to find out, I'm giving it all out of my  
3 office, no pharmacist is going to be able to  
4 call on me because they're not going to take a  
5 prescription to the pharmacy. So, you know,  
6 that was one way of doing diversion and hoping  
7 no one finds out.

8 And then there was -- you know,  
9 there was physicians that prescribed diet  
10 drugs, which was real big for a long time till  
11 we put a stop to that to the best of our  
12 abilities.

13 And then the opiates.

14 You know, a lot of good practitioners,  
15 practicing physicians out there, but it was  
16 pretty bad for a while.

17 Q. When you referenced a lot of good  
18 doctors or a lot of good practicing physicians  
19 out there, was that your experience,  
20 Mr. Pavlich, that most physicians practiced in  
21 good faith and it was just a small number of bad  
22 doctors that caused a lot of the problems?

23 A. Yes.

24 Q. You referenced Dr. Orr and  
25 prescribing out of his office so that it

1 wouldn't -- the prescriptions wouldn't go to the  
2 pharmacies. How was his conduct uncovered if it  
3 wasn't through the pharmacists because they  
4 weren't bringing the prescriptions to the  
5 pharmacists?

6           A.       This goes back to the early part of  
7 my career with the state. I believe I got  
8 information from probably someone picked up  
9 with diet pills, being amphetamines, Adipex for  
10 an example, and from that I believe it led to  
11 where did you get them. They were in a vial or  
12 whatever, unmarked to a pharmacy. And from  
13 that, then I -- let me think about this for a  
14 second. I ran reports for manufacturers who  
15 sell that particular drug, Adipex or  
16 phentermine, and I noticed that doctor was  
17 purchasing huge volumes of these drugs, and  
18 then I said to myself, oh, I see what's going  
19 on, he's just bringing the patients in, getting  
20 cash, which I found out, and then giving the  
21 pills directly to them, and no one knows but  
22 him and his patients that he was giving it to,  
23 and his office staff.

24                       So that resulted in an  
25 investigation that resulted in me writing a

1 search warrant for his office and going in and  
2 pulling every single patient file out of that  
3 office.

4 Q. Was that a technique that you were  
5 able to apply later in your career? And by that  
6 I mean starting with information related to the  
7 drugs being purchased from the manufacturers and  
8 tracing it down to the doctors.

9 A. Yeah. It wasn't an easy process  
10 then. We didn't have a system -- if you're  
11 familiar with OARRS. Everything was manual.  
12 So if I -- if I had 500 patients, I would have  
13 to manually enter them into an Excel system,  
14 and all the prescriptions or all the specific  
15 drugs, the quantities, so on and so forth, like  
16 an OARRS report, and manually do this. And my  
17 secretary was -- it wasn't an easy thing, but  
18 that's how we did it, and that's how I put  
19 together that case on Dr. Orr.

20 Q. Later -- I think OARRS came in in  
21 early 2006. Do you recall that?

22 A. I don't remember the date. I'll  
23 take your word on 2006.

24 Q. Do you recall OARRS being a  
25 beneficial tool for your criminal law

1 enforcement investigations in terms of having  
2 ready access to prescription information that  
3 used to be manual?

4 A. Best tool I ever had.

5 Q. So was that a dramatic shift in your  
6 ability to investigate criminal behavior  
7 involving pharmaceutical diversion?

8 A. Dramatic.

9 Q. How so? Can you tell us?

10 A. Well, if I'm investigating Dr. A  
11 and I want to see where all the patients are  
12 taking all their prescriptions, all I had to do  
13 was run a report on him. Instead of making  
14 phone calls to 50 pharmacies in a set radius, I  
15 get a report on it.

16 Or if I was investigating patient B  
17 and wanted to see what he was doing, I'd print  
18 his profile through OARRS and it would show me  
19 that he went to Dr. A, B, C, D, E and took the  
20 prescriptions to pharmacy E, F, so on and so  
21 forth down the line. I found everything  
22 immediately instead of making 50 phone calls  
23 for every pharmacy asking them do you have this  
24 patient, do you have this doctor's  
25 prescriptions. It made it simple.

1           Q.     Did it speed up your criminal  
2 investigations?

3           A.     It did.

4           Q.     We'll get into OARRS shortly, but I  
5 want to ask you a few more general questions.

6                     Can you describe the type of  
7 criminal activity that occurs in the  
8 pharmaceutical diversion area? What types of  
9 crimes are occurring or did occur in your 25  
10 years there?

11          A.     Trafficking in drugs, illegal  
12 processing of drug documents, drug abuse.  
13 Those are probably the top three.

14          Q.     The top three. Then trafficking in  
15 drugs, trafficking in pharmaceuticals, what did  
16 you see in your experience? What types of  
17 criminal trafficking was occurring while you  
18 were a board agent?

19          A.     Illegal prescribing, illegal  
20 dispensing, illegal selling, illegal self-use.  
21 That's pretty much it.

22          Q.     Okay. And illegal processing, what  
23 does that mean? What are you referring to?

24          A.     You get a prescription for -- from  
25 a legitimate prescriber for ten tablets of

1 Percocet, a Schedule II controlled substance,  
2 and before you take it to the pharmacy, it's  
3 written out in black by the doctor and you put  
4 a zero next to the 10, and you take it in and  
5 you give it to the pharmacist, and instead of  
6 getting 10, you get 100. That's illegal  
7 processing.

8 Q. So you get -- it starts with a  
9 legitimate prescription that is altered  
10 fraudulently in some way?

11 A. Well, it could also be you create  
12 it, the prescription, and bring it in, or  
13 duplicating a legitimate prescription and  
14 bringing it in. An example would be if you get  
15 the ten tablets of Percocet from a doctor, you  
16 take it to a copy machine, you run it off ten  
17 times and you take it to ten different  
18 pharmacies. And if the pharmacist calls the  
19 office with a question about, you know, this  
20 looks like a photocopy, and he calls the office  
21 and asks the nurse do you have a prescription  
22 for George Pavlich for ten tablets of Percocet,  
23 and the nurse looks at the file, yes, he was  
24 issued a prescription for this, and they fill  
25 it. And unless the nurse catches that ten

1 pharmacists called me about the same  
2 prescription from ten different pharmacies,  
3 they get filled.

4 Q. I see. So in that type of  
5 circumstance, the pharmacist is doing what he  
6 can to verify but not knowing that the focal  
7 point, the nurse who is checking, isn't telling  
8 him or the other pharmacists that I got nine  
9 other calls before yours?

10 MR. WEINBERGER: Objection as to  
11 form.

12 Q. Did I understand that correctly,  
13 Mr. Pavlich?

14 A. Yes, that is true. Pharmacists  
15 rely upon the source of the prescription, being  
16 the physician, to legitimize what they have in  
17 front of them if they call. I mean, there was  
18 times when -- I can think of one doctor that  
19 his nurse kept legitimizing all these  
20 prescriptions from someone who was  
21 photocopying, and I had to go pay that  
22 physician a visit and I explained to him what  
23 was going on.

24 Q. Did your investigations involve  
25 multiple agencies from time to time? And I'll

1 break that down for you. Did you ever work with  
2 the DEA?

3 A. Yes, I did. I was actually working  
4 right out of their task force office for a  
5 number of years.

6 Q. Were you on the task force?

7 A. Not assigned, but I worked out of  
8 their office a number of years. I worked with  
9 one specific person that was assigned down  
10 there and one specific person from the  
11 Youngstown Police Department that was assigned  
12 pharmaceuticals out of their unit, and Mahoning  
13 County Drug Task Force, Trumbull County Drug  
14 Task Force, Columbiana County. I worked with  
15 all of them.

16 Q. Okay. I want to just direct your  
17 attention, Mr. Pavlich, to some of the  
18 information that we have regarding the State  
19 Board of Pharmacy.

20 Now, you spent 25 years of your  
21 career with the State Board of Pharmacy. How  
22 would you describe the roles of the State Board  
23 of Pharmacy in terms of regulating and  
24 enforcing the drug laws in Ohio?

25 A. During my career, aggressive,

1 compliant, and professional.

2 Q. Was the Board of Pharmacy the  
3 primary regulator and law enforcement agency for  
4 the pharmaceutical industry in Ohio during your  
5 career?

6 A. State-wise, in my opinion, yes.

7 Q. It sounds like others might have a  
8 different opinion.

9 A. Well, you got the federal  
10 government, the DEA. They had a compliance  
11 unit up in Cleveland that relied on us to help  
12 them with a lot of things. You had Youngstown  
13 Police Department, which is, you know, the city  
14 that relied on me helping them work cases. I  
15 had a lot of experience, so I was pretty much  
16 in demand to help different agencies do  
17 different things. I had issues with some. You  
18 know, if they didn't want to do it a certain  
19 way, then I wouldn't work with them anymore.

20 Q. Did the DEA inspect pharmacies in  
21 Ohio or was that the board's function?

22 A. They had gone in some that I know  
23 of. I don't know to what extent they did it.  
24 They pretty much sat in their office up in  
25 Cleveland.

1           Q.       Okay. What I'm getting at is I just  
2       want to understand, was it a normal function of  
3       the DEA to inspect pharmacies in Ohio or was  
4       that primarily the board's function?

5           A.       Primarily the board.

6           Q.       Does the board also have an  
7       important licensing function?

8           A.       You couldn't dispense drugs without  
9       a board license or a DEA license.

10          Q.       So that was one of the roles that  
11       the board played, the licensing of pharmacies  
12       and renewals of pharmacy licenses; am I correct?

13          A.       The board licensed all terminal  
14       distributors, wholesale providers, anywhere  
15       that pharmaceuticals were in the state of Ohio  
16       from a first aid unit to a major manufacturer.

17          Q.       And you mentioned the DEA also  
18       provided registration. Would that be the  
19       same --

20          A.       Not everywhere would have a DEA  
21       license. Only if you were specific into use or  
22       the dispensing or the prescribing of controlled  
23       substances did they come into play.

24          Q.       You used the term "terminal  
25       distributor of dangerous drugs," TDDD. I've

1     seen that reference. In layman's terms, is that  
2     a pharmacy or is that too narrow of a  
3     description?

4             A.     No. That would be a pharmacy.

5             Q.     Are there other entities that are  
6     included in that TDDD description?

7             A.     Anywhere where the drugs would go  
8     in, and they would terminate at that particular  
9     location; in other words, terminate being  
10    dispensed or administered would be a terminal  
11    distributor of dangerous drugs.

12            Q.     Are there a lot of doctors' offices  
13    that have TDDD license -- licenses?

14            A.     Now? I'm not sure now. Then there  
15    were some that had it. There were some that  
16    were, oh, let's say for purposes of, in their  
17    words, a lot of times trying to help their  
18    patients out. They would have stock of certain  
19    wholesale purchased medications and then  
20    provide them to their patients for a nominal  
21    fee, but not the majority of physicians.

22            Q.     Is one of the roles of the board  
23    when you were there for 25 years -- was it one  
24    of their primary roles to enforce the Ohio  
25    Revised Code regarding drug offenses and

1 controlled substances and dangerous drugs?

2 A. Yes.

3 Q. I put in this exhibit binder Edwards  
4 Exhibit 2. If you want to flip to it in your  
5 binder.

6 A. Yes.

7 Q. If you go to page 4 of this  
8 exhibit --

9 A. Okay.

10 Q. -- there's a page called "Role of  
11 the Board," and it says, "Charged with enforcing  
12 key chapters of the Ohio Revised Code,"  
13 including drug offenses, pure food and drug  
14 laws, controlled substances and pharmacists,  
15 dangerous drugs. Was that what you understood  
16 the role of the board to be in your 25 years  
17 there?

18 A. Yes.

19 Q. And on the next page it has further  
20 information about the role of the board broken  
21 down between administration, communication and  
22 education and law enforcement. Administration  
23 includes licensing and regulating pharmacists,  
24 pharmacy interns and locations that store  
25 dangerous drugs, like pharmacies, EMS, physician

1 offices, wholesalers. Does that strike you as  
2 accurate from your 25 years at the board, that  
3 that's what the board was charged with doing,  
4 including all the way down to enforcing the drug  
5 laws and rules for the state of Ohio?

6 A. Yes. That there completes the  
7 total picture.

8 Q. Okay. There's a reference on  
9 pages -- on page 6 to the agency structure,  
10 having a licensing department, a legal affairs  
11 department, policy and communication, compliance  
12 and enforcement department, and an OARRS  
13 department. Do you recall that being the  
14 structure of the board while you were there?

15 A. Not initially when I got hired was  
16 there an OARRS department, but when I left  
17 there was an OARRS department. Yes, that's  
18 pretty much it.

19 Q. Okay. The next few pages, 7 through  
20 9, they talk about field staff, and they start  
21 with an agent, then they have a specialist. Do  
22 you recall the distinction while you were  
23 working as an agent between agents and  
24 specialists?

25 A. Yes.

1           Q.       You were not a specialist; am I  
2 correct?

3           A.       Correct.

4           Q.       What was a specialist from your  
5 experience? What was the difference between a  
6 specialist and an agent?

7           A.       An agent was like myself, a former  
8 law enforcement person. A specialist was a  
9 licensed pharmacist. We had similar but  
10 different duties and inspection facilities,  
11 though we could all go into each other's  
12 facilities when necessary or someone wasn't  
13 available, like I would go into pharmacies a  
14 lot, a specialist would go into hospitals and  
15 nursing homes. But because I was with the  
16 board a long time, I, a lot of times, would go  
17 into hospitals and those types of facilities to  
18 not only assist a specialist but do things.  
19 Similar but different.

20          Q.       I see. One of the first duties  
21 mentioned on page 7 of an agent is to inspect  
22 pharmacies.

23                   Do you see that?

24          A.       That's the first one noted, yes.

25          Q.       Was that an important function of

1 the board agents, to inspect the pharmacies that  
2 were licensed by the board?

3 A. To me it was very important, and we  
4 were required to do 50 full -- not just to walk  
5 in and say hello, 50 full inspections every  
6 year.

7 Q. And if you did that for the 25 years  
8 you were there, that would give you what, about  
9 1,200 inspections?

10 A. Your math is better than mine, but  
11 it was a lot. More -- I had a hard time doing  
12 them.

13 Q. Now, you made a distinction. You  
14 said they weren't just stop in and say hello.  
15 They were actual full inspections. What do you  
16 recall a full inspection involving?

17 A. A full inspection would be I would  
18 go in there -- and on inspection sheets there  
19 was a little column to the left on the manual  
20 sheet, and, as I recall, it would start off  
21 licenses and go all the way down and encompass  
22 just about every aspect of what you would need  
23 to look at in a pharmacy to meet administrative  
24 regulatory compliance.

25 Q. All right. We'll get into

1 inspections in a little bit. I want to just  
2 finish this document.

3 If you go to page 10, there's a  
4 section called "Investigations: Criminal."

5 Are you with me?

6 A. Oh, I see it, "Investigations:  
7 Criminal," okay.

8 Q. Do you see it says there, "Drug  
9 Diversion: Any criminal act involving a  
10 prescription drug. Includes theft of drugs,  
11 tampering with drugs, deception to obtain  
12 dangerous drugs, illegal processing of drug --  
13 of drug" -- I guess they mean or, "of drug or  
14 drug documents."

15 Do you see that?

16 A. Yes.

17 Q. Does that cover the four primary  
18 types of criminal investigations that you  
19 conducted in your 25 years at the board? Is  
20 there anything missing is what I'm getting at?

21 A. There's self-abuse by a physician,  
22 where they would write prescriptions, give it  
23 to someone, have them fill them, bring them  
24 back to them and they were using them. So  
25 self-abuse I would have added into that little

1 category.

2 Q. Okay. Anything else?

3 A. That's a diversion.

4 I don't know why they don't have  
5 trafficking in drugs, but I didn't write this.  
6 Apparently Mr. Wimberly did.

7 Q. Do you know Mr. Wimberly?

8 A. I know him.

9 Q. And what was his position at the  
10 board?

11 A. He was a field agent. He's now a  
12 supervisor, I believe.

13 Q. Okay. But you would add self-abuse  
14 by doctors and trafficking --

15 A. I would. I would have put that  
16 there.

17 Q. Okay.

18 A. I mean, obviously they're both  
19 diversions of drugs. If you get a legitimate  
20 prescription and you divert it by selling it,  
21 that's trafficking in drugs.

22 Q. Okay.

23 A. Or you illegally use it for  
24 yourself. That's diversion of drugs.

25 Q. Okay. The last part of this

1 pamphlet or document speaks about OARRS, and  
2 it's pages 11 through 24. OARRS would have been  
3 in effect for the last six years of your career  
4 approximately, if we assume OARRS started in  
5 2006?

6 A. Yeah. That would be about -- well,  
7 I left March 1st of 2012, so in January and  
8 February I was pretty much wrapping things up.  
9 I was finishing the Evankovich case, the  
10 Overholt case. I wasn't really going out doing  
11 inspections or anything. So really '06, '07,  
12 '08, '09, '10, and I don't know when they  
13 started in '06. So maybe six years, yeah.

14 Q. About six years.

15 What did you learn about OARRS in  
16 those -- let's call it those six years? Was  
17 OARRS a discretionary or a mandatory system  
18 while you were an agent?

19 A. It was mandatory that all  
20 pharmacies comply and produce electronic  
21 documentation to the State Board of Pharmacy in  
22 Columbus.

23 Q. Are you speaking of in the 2011-2012  
24 time period, because what I'm getting at is --  
25 and I'll be more specific. When did it become

1 mandatory that an OARRS report be run and under  
2 what conditions?

3 A. I don't remember how often they  
4 compiled OARRS reports from specific stores,  
5 but I know from chains to independents, a  
6 dispensing pharmacy had to electronically send  
7 all their dispensing controlled substances, and  
8 there might have been another -- like Soma was  
9 not a controlled substance at the time --  
10 electronically to the Board of Pharmacy. It  
11 was every two weeks, every month. I'm not  
12 exactly recalling that. And if they did not  
13 send it, then I think Columbus would make a  
14 phone call and try to ascertain what was the  
15 problem. But everyone had to comply, at least  
16 to my knowledge.

17 Q. Okay. And it wasn't only pharmacies  
18 providing this information, doctors and  
19 wholesalers were also providing information to  
20 the OARRS database; is that correct?

21 A. No. Doctors did not have to  
22 provide -- unless they were dispensing  
23 medications out of their office. They might  
24 have been. I'm not familiar with that.

25 Q. Okay.

1           A.       But wholesalers had to comply.

2           Q.       And they provided their wholesale  
3 sales information to the Board of Pharmacy on a  
4 periodic basis in addition to the pharmacies  
5 reporting their dispensing information?

6                   MR. WEINBERGER:   Objection as to  
7 form.

8           Q.       You can answer, sir.

9           A.       I'm not positive on wholesalers but  
10 I'm pretty sure they had to comply.

11          Q.       Okay. Did you develop an  
12 understanding over time of when a pharmacist or  
13 a doctor was required to access the OARRS  
14 database and run a report on a patient under  
15 certain conditions?

16          A.       Doctor or a pharmacist?

17          Q.       Yes.

18          A.       I know they had responsibilities to  
19 look for a patient profile. I don't know  
20 how -- I can't recall how frequently they were  
21 required to do it, if it was every patient or a  
22 random sampling of patients, but I know when I  
23 went in and talked to a pharmacist for an  
24 investigation or a physician on a patient for  
25 an investigation, when OARRS was up and

1 running, that would be one of the questions I  
2 would ask them, did you run an OARRS report.  
3 You know, I don't recall the exact standard.

4 Q. Understood.

5 If you look at page 14 and 15 of  
6 this Edwards Exhibit 2, you see there's a  
7 presentation of when a pharmacist must query  
8 OARRS. Now, on page 14 this is listed as  
9 effective February 1 of 2016, and by then you  
10 had been retired almost four years. I don't  
11 mean for this to be a memory test for you, but  
12 I'm just seeing if this jogs your memory as to  
13 what was in effect prior to your retirement in  
14 terms of when a pharmacist must query OARRS.

15 Do you recognize any of these  
16 conditions or you don't recall, either one?

17 A. Am I looking at 14?

18 Q. Page 14, yes. It has a caption "RPh  
19 must query OARRS" on Exhibit 2.

20 A. I'm going to hold this up. You  
21 tell me if I got the right thing. It doesn't  
22 look like what you're talking about.

23 Q. It's that same document that has  
24 Wimberly on it.

25 A. This document (indicating)?

1 Q. No.

2 A. Well, that's 14 in my folder.

3 Q. Yeah. I'm sorry. I meant page 14.

4 If I said Exhibit 14 --

5 A. Oh, you said --

6 Q. I misspoke. Sorry.

7 A. Going back --

8 Q. Go back to Exhibit 2, page 14.

9 A. Okay, Exhibit 2, page 14. That's  
10 better. Sorry. I might have misunderstood  
11 you.

12 Q. That's fine.

13 A. Okay. There we go. I got it.

14 Q. And I just was wanting you to take a  
15 look at some of those conditions of when a  
16 pharmacist must query OARRS, recognizing that  
17 this text begins effective February 1 of 2016.  
18 I just wanted to see if it jogged your memory in  
19 any way as to when you recall pharmacists were  
20 supposed to check OARRS while you were an agent  
21 before your retirement in 2012.

22 A. I don't recall this at all as  
23 something that was brought to my attention when  
24 I worked, these specifics. Like I say, I  
25 wasn't familiar with it.

1           Q.       Okay. Same on page 15, are you also  
2 not familiar with these conditions?

3           A.       No, I'm not familiar.

4           Q.       All right. I think I know the  
5 answer. If you would look at page 15 and 17  
6 that has "Prescriber must query OARRS." Are you  
7 also not familiar with these -- these  
8 conditions, Mr. Pavlich?

9           A.       They all make sense, but I don't  
10 remember anything specific like this during my  
11 time. I mean, we might have talked about this  
12 during staff meetings, but I don't remember  
13 anything laid out like this.

14          Q.       Okay. How about I direct your  
15 attention to Exhibit 3 in the same binder.

16          A.       That's the tab marked 3, right?

17          Q.       Yes.

18          A.       Okay. Go ahead.

19          Q.       Do you know Steven Schierholt? Was  
20 he the executive director while you were still  
21 an agent?

22          A.       I don't know him.

23          Q.       I'm sorry. Do you know  
24 Mr. Schierholt?

25          A.       I don't know him.

1           Q.       Oh, I'm sorry. I didn't hear your  
2 answer.

3                    If you look at page 3 of this  
4 exhibit, Mr. Pavlich -- they're not numbered  
5 so --

6           A.       Yeah, I got it.

7           Q.       -- under Priority number 2, "Ensure  
8 routine inspections and enhance capacity to  
9 conduct administrative and criminal  
10 investigations."

11                   Do you see that?

12          A.       I see it.

13          Q.       Now, the second paragraph below that  
14 states, "Currently, board agents and specialists  
15 are charged with conducting inspections as well  
16 as investigations of individuals and entities in  
17 violation of Ohio laws and rules."

18                   Is that what you understood your  
19 role was as an agent as well as specialists in  
20 terms of conducting inspections of pharmacies  
21 while you were an agent?

22          A.       Conducting inspections and  
23 investigations in violation of Ohio law and  
24 rules, yep, that was my duty.

25          Q.       If you flip to the next page, at the

1 top, the first full paragraph, you see where it  
2 states, "Routine inspections allow board staff  
3 to review facilities to ensure they comply with  
4 security, recordkeeping and other rules designed  
5 to deter and detect the diversion of  
6 prescription drugs, including opioids. Routine  
7 inspections provide the opportunity to correct  
8 problems before they escalate to a complaint  
9 requiring a more time-intensive investigation."

10 Is that consistent with your  
11 understanding of what the purpose of  
12 inspections of pharmacies was when you were an  
13 agent with the board, Mr. Pavlich?

14 A. Well, I take exception to routine  
15 inspections provide the opportunity to correct  
16 problems before they escalate to a complaint  
17 requiring a more time-intensive investigation.  
18 To a small extent, true, but if I walked into a  
19 pharmacy -- we'll use Overholt Pharmacy -- and  
20 saw prescriptions to the extent of what was  
21 going on in there, there would be no correction  
22 of problems, there would be prosecution of  
23 problems. So I'm not in total agreement with  
24 the wording, just like the standard today  
25 versus when I worked may be different in

1 approaching investigations or creating  
2 investigations than when I worked.

3 Q. But that first sentence in that  
4 paragraph, sounds like you agree with it, that  
5 the purpose of the inspection was to ensure  
6 compliance with security, recordkeeping and  
7 other rules designed to deter and detect the  
8 diversion of prescription drugs, including  
9 opioids?

10 A. Yes.

11 Q. Did the OARRS database evolve over  
12 time while you were there, I guess those six  
13 years, the last six years of your career? Did  
14 you see it change in any way?

15 A. Got more data in it.

16 Q. In what way? What was the  
17 additional data?

18 A. Well, when it first started, it had  
19 nothing, and by the end of my career, it had  
20 all this data from all these locations in its  
21 database, so if I was looking for me at the  
22 beginning, there would be nothing, but if I  
23 went out over the course of a number of years  
24 and visited a number of doctors, obviously  
25 there would be more data in there and it would

1 show this. I mean, I can't think of any -- I  
2 mean, it got faster, it worked quicker, it was  
3 easier to access.

4 Q. Okay. Could you tell from the OARRS  
5 data whether a prescription is legitimate or  
6 not?

7 A. Just from the data? To an extent,  
8 yes.

9 Q. How so?

10 A. Well, I would always need to look  
11 at the actual prescription, always. That's the  
12 written bible, the actual prescription. But if  
13 I looked at a database from OARRS using my name  
14 and it showed that I got an oxycodone  
15 prescription from Dr. A and took it to pharmacy  
16 B, C, D and F, I'd think something was wrong.  
17 Or I went to Dr. A, B, C, D and got oxycodone  
18 prescriptions from all four with, let's say, a  
19 month supply for each prescription, I would  
20 think something is wrong and that would result  
21 in me going to pharmacy A, B, C and D, finding  
22 those prescriptions and see what's going on and  
23 why physicians -- four physicians had issued  
24 four prescriptions for the same drug in a  
25 30-day supply to one specific patient.

1           Q.       And would you also -- I'm sorry.  
2       Were you done?

3           A.       Yeah.

4           Q.       Okay.   Would you also want to talk  
5       to the doctors to see why they issued the  
6       prescription?

7           A.       I always did.

8           Q.       Okay.   And why did you always talk  
9       to the doctors in your investigation?

10          A.       To determine legitimate medical  
11       purpose, which was a requirement to charge  
12       someone, legitimate medical purpose.   If  
13       there's no legitimate medical purpose, then the  
14       prescription, on its face value, is illegal.  
15       So if I went to Dr. A and said did you write  
16       this for patient George Pavlich, and he said  
17       yes.   And what was the reason you wrote it?  
18       Well, he had severe back pain.   Okay.   And then  
19       I'd go to B and ask him did you write this for  
20       George Pavlich?   Yes.   And for what reason?   He  
21       has severe back pain.   Well, when you wrote  
22       this, did you know that Dr. A wrote him a  
23       30-day supply?   No, I did not.   Then it would  
24       go right on down the line and I would charge  
25       however.   And if it involved a physician, then

1 I would charge him, too.

2 Q. Okay. So the OARRS database could  
3 provide some information that something might be  
4 wrong, which would require further  
5 investigation, including talking to doctors?

6 A. Yes. On its face it was an  
7 enlightening experience to look at it that way,  
8 but then it would require follow-up to  
9 complete, beyond a reasonable doubt requirement  
10 in the Ohio Revised Code.

11 Q. Okay. Can the OARRS database  
12 identify the top prescribers, the top patients  
13 getting controlled substance prescriptions,  
14 things of that nature?

15 A. It could identify -- I'm trying to  
16 recall how this thing worked. I could run a  
17 physician profile if I had a question and it  
18 would provide me the specific for prescribing  
19 during a specific time frame. For an example,  
20 Dr. A, I want to see what he prescribed for the  
21 first three months in '06 for oxycodone, and I  
22 believe it could produce it.

23 Q. Mr. Pavlich, or Agent Pavlich, were  
24 pharmacists able to do that the same as you in  
25 terms of being an investigative agent? Could

1     they go in and run physician profiles in OARRS  
2     or was that something only the investigative  
3     agents could do?

4             A.     I know agents could do it. I don't  
5     know initially when it started, but later on --  
6     again, if it started in '06 -- I'm not sure  
7     exactly when it went up. But the pharmacists  
8     could input a patient's name and see if that  
9     patient was going to other pharmacies or  
10    doctors. I don't know to what extent or time  
11    frame. I don't recall.

12            Q.     Okay. But what I was getting at is  
13    could a pharmacist pull up a doctor and say, "I  
14    want to see everything Dr. Smith has been up to  
15    in the last couple years; regardless of the fact  
16    that I only have his one patient in front of me,  
17    I want to see his whole dispensing or his whole  
18    prescribing history for a certain time frame"?  
19    Do you know if that was accessible by  
20    pharmacists or you don't recall?

21            A.     I don't -- I don't think it was  
22    accessible, but I'm not certain. I know it was  
23    for patient specific.

24            Q.     Does the -- did the board while you  
25    were there have subpoena powers?

1           A.       I'm not sure. I believe they did.  
2       I'm not sure. I believe they did but I'm not  
3       sure.

4           Q.       Was it one of the primary board  
5       functions to not only gather the OARRS data but  
6       also to analyze it for investigative leads?

7           A.       I don't know what they did down in  
8       Columbus. I know I would analyze what I  
9       specifically asked for.

10          Q.       Do you recall getting leads from the  
11       OARRS department based upon their analyses of  
12       the OARRS data?

13          A.       No. I don't recall getting  
14       anything from the OARRS department unless I  
15       specifically asked for it.

16          Q.       You testified earlier, Agent  
17       Pavlich, that you were familiar with the Ohio  
18       Revised Code and the Ohio Administrative Code,  
19       correct?

20          A.       Not as well as I was in 2012, but  
21       I'm sort of familiar.

22          Q.       Would you flip to Exhibit 5, please,  
23       in the binder?

24          A.       Okay.

25          Q.       Were the legal requirements for

1 pharmacies contained either in the Ohio Revised  
2 Code or the Ohio Administrative Code based on  
3 your experience?

4 A. This is the administrative code. I  
5 mean, there might be a corresponding code in  
6 the Ohio Revised Code, but I'm looking at this  
7 and this is all I know.

8 Q. But when you were doing your job as  
9 an agent, including inspecting pharmacies, were  
10 you attempting to enforce the Ohio  
11 Administrative Code and whatever statutory  
12 provisions back up that Administrative Code?

13 A. Yes. Like this code I know would  
14 have a corresponding federal code. How it  
15 relates to Ohio Revised Code would be if you  
16 left your pharmacy wide open and had no  
17 security and let anyone access the place, then  
18 that would be, in my opinion, a violation of  
19 the criminal code.

20 Q. Are you familiar with this security  
21 requirement from the Ohio Administrative Code in  
22 Section 4729-9-05, and I'll read Subsection A,  
23 "All licensees and registrants shall provide  
24 effective and approved controls and procedures  
25 to deter and detect theft and diversion of

1 dangerous drugs. In order to determine whether  
2 a licensee or registrant has provided effective  
3 and approved controls against diversion, the  
4 State Board of Pharmacy shall use the security  
5 requirements set forth in Rule 4729-9-11 of the  
6 Administrative Code as standards for the  
7 security controls and operating procedures  
8 necessary to deter and detect diversion."

9 Are you familiar with that security  
10 requirement, Agent Pavlich?

11 A. I am.

12 Q. Is that the main security  
13 requirement required of pharmacies licensed in  
14 the state of Ohio, that they shall provide  
15 effective and approved controls and procedures  
16 to detect theft and diversion of dangerous  
17 drugs? Was that the main requirement that was  
18 being enforced when you were doing your duties  
19 as an agent?

20 A. For security requirements, yes.

21 Q. Okay. And it says in Subsection B,  
22 "Substantial Compliance with the Standards Set  
23 Forth in Rule 4729-9-11 of the Administrative  
24 Code may be deemed sufficient by the State Board  
25 of Pharmacy after evaluation of the overall

1 security system and needs of the applicant,  
2 licensee or registrant. In evaluating the  
3 overall security system of a licensee,  
4 registrant or applicant, the State Board of  
5 Pharmacy may consider any of the following  
6 factors as deemed relevant for compliance with  
7 security requirements," and then it lists 14  
8 separate requirements.

9 Do you recognize this  
10 Administrative Code section, Mr. Pavlich?

11 A. I agree I recognize it.

12 Q. So what do you understand in  
13 paragraph A -- go back to A, "Effective and  
14 Approved Controls and Procedures to Deter and  
15 Detect Theft and Diversion of Dangerous Drugs"  
16 -- what does that mean in your experience?

17 A. Well, only a licensed pharmacist in  
18 the state of Ohio shall access and control the  
19 access of a pharmacy by means that prevent  
20 diversion, theft of drugs. And that would be  
21 electronic barricade, physical barricade, key  
22 control access to the electronic and key  
23 control barricades. That pretty much covers  
24 it.

25 Q. But the controls were broader than

1     that, were they not, in terms of not only  
2     physical security controls? Wouldn't it also  
3     include internal controls in the pharmacy to  
4     prevent theft and diversion?

5                     MR. WEINBERGER: Objection. Form.

6             Q.     When I'm referring to, Mr. Pavlich,  
7     in paragraph B, "Substantial Compliance," the  
8     substantial compliance provision and the factors  
9     that are considered, if you look over those 14  
10    factors, you'll see that that begins with the  
11    type of activity conducted, the type and form of  
12    dangerous drugs handled, the quantity of  
13    dangerous drugs handled, location of the  
14    premises, type of building construction, type of  
15    vaults and safes, types of closures on vaults  
16    and safes and secure enclosure, adequacy of key  
17    control systems, adequacy of electronic  
18    detection and alarm systems, extent of  
19    unsupervised public access to the facility,  
20    adequacy of supervision over authorized  
21    employees having access to areas containing  
22    dangerous drugs, procedures for handling  
23    business guests, availability of local police  
24    protection, and number 14, adequacy of the  
25    licensee's, registrant's or applicant's system

1 for monitoring the receipt, manufacture,  
2 distribution, and disposition of dangerous drugs  
3 in its operation.

4 So the reason I read all 14 of  
5 those is I wanted to ask you, do you understand  
6 those to not only include physical controls  
7 like barricades, but also operational controls,  
8 like systems for monitoring dangerous drugs?

9 MR. WEINBERGER: Objection. Form.

10 Q. You can answer.

11 A. I'm trying to think how to answer  
12 this thing. I agree under this section that  
13 all of those standards are in place to not only  
14 protect the theft or diversion of drugs but the  
15 documentation, being computers, being profiles,  
16 being prescriptions; anything that should be  
17 held in confidentiality falls under security  
18 requirements.

19 Q. Okay.

20 MR. WEINBERGER: Objection. Move  
21 to strike.

22 Q. The term "substantial compliance,"  
23 what do you recall that term to mean based upon  
24 your experience?

25 A. I don't recall it.

1           Q.     Do you recall as an agent evaluating  
2     pharmacies' compliance with the security  
3     requirement by considering the type of activity  
4     conducted and the type and form of dangerous  
5     drugs handled and the quantity of dangerous  
6     drugs handled? Was that something that was a  
7     factor -- were these factors evaluated when  
8     considering whether pharmacies were adhering to  
9     the security requirement?

10          A.     I don't know. I don't think I  
11     understand what you're saying.

12          Q.     Okay. Let me put it this way: When  
13     you went in for your pharmacy inspections, the  
14     50 a year that you said you did, was one of the  
15     things that you were trying to make sure is that  
16     the pharmacies were adhering to the code  
17     requirements with respect to effective controls  
18     and procedures to detect and prevent theft and  
19     diversion? Is that the primary purpose of those  
20     inspections?

21          A.     Right. I would look at is  
22     everything secured so that anyone who should  
23     not have access is prevented from having  
24     access.

25          Q.     And did it matter to you whether or

1 not the pharmacy was only handling certain types  
2 of drugs or -- in only certain quantities? Was  
3 that part of your evaluation?

4 A. No. It would include all drugs  
5 except OTC drugs, over-the-counter drugs,  
6 those. Anything that had a federal legend on  
7 it would be required secured.

8 Q. You said earlier that you thought  
9 that there was a federal counterpart to the  
10 security requirement. What were you thinking of  
11 specifically?

12 A. I don't recall the federal code. I  
13 didn't usually use it. But usually it's -- it  
14 mirrors what's in the Administrative Code, like  
15 4729-5-30, Manner of Issuance. I know there is  
16 a federal code that is the manner of issuance.  
17 So usually they mirror off of each other.

18 Q. Okay. So you believe that in the  
19 Code of Federal Regulations there's a security  
20 requirement that mirrors the Ohio security  
21 requirement?

22 A. I'm pretty sure.

23 Q. If you go to the third page of this  
24 Exhibit 5, the third physical page, there's an  
25 Ohio Code Section 4729-9-11, Security and

1 Control of Dangerous Drugs.

2 Do you see that?

3 A. Where are you at, 4729-5-11?

4 Q. No. -9-11. It's the third physical  
5 page of Exhibit 5. In the top left it should  
6 say 4729-9-11.

7 A. One, two, three. We're counting  
8 the back side of pages, are we?

9 Q. No.

10 A. No, you're not counting the back  
11 side of pages. Okay, I got it, 4729-9-11.

12 Q. Okay, we're there.

13 Are you familiar with this Ohio  
14 code provision?

15 A. I'm sure I was more familiar in the  
16 past, but yes. Okay. Go ahead.

17 Q. Now, was this code section something  
18 that you had in mind and were attempting to  
19 enforce compliance with when you did pharmacy  
20 inspections?

21 A. Yes.

22 Q. There's Section A of this. It has  
23 the caption "In a pharmacy," and under 1 it  
24 says, "Except as provided in paragraph (A)(2) of  
25 this rule, a pharmacist shall provide personal

1 supervision of dangerous drugs, exempt  
2 narcotics," et cetera. Is that a provision that  
3 you recall? I'll call it the supervision  
4 requirement.

5 A. Yes.

6 Q. All right. So how did you  
7 understand that rule to apply when you were  
8 doing your inspections? What were you looking  
9 for?

10 A. I was looking for all records and  
11 drugs to be secured within an environment  
12 controlled by a licensed pharmacist with no  
13 access to non-authorized personnel.

14 Q. Okay. When a pharmacist could not  
15 supervise, say when the pharmacy was closed,  
16 were you looking for certain requirements to be  
17 met?

18 A. Yes.

19 Q. And what were those requirements?

20 A. A secure barricade or electronic  
21 barricade.

22 Q. Are you familiar with the term "drug  
23 utilization review"?

24 A. Yes.

25 Q. What do you understand that to be?

1 And I'll call it a DUR. What is a DUR?

2 A. Drug utilization review would be an  
3 examination of a patient profile, a doctor  
4 profile, a dispensing profile, a purchase  
5 profile, a sales profile.

6 Q. Is that something that you looked  
7 for in your inspections, whether or not the  
8 pharmacists were conducting DURs?

9 A. Yes.

10 Q. Is the DUR a mechanism to -- in your  
11 experience, a mechanism to detect unusual usage  
12 and questionable disposition of pharmaceuticals  
13 or suspicious orders of pharmaceuticals?

14 MR. WEINBERGER: Objection.

15 Go ahead.

16 A. Yes.

17 Q. In your experience, besides  
18 performing a DUR, was there anything that you  
19 recall that you wanted to see pharmacists  
20 performing when they were filling prescriptions  
21 in order to detect unusual usage, questionable  
22 disposition and/or suspicious orders besides  
23 doing the DUR?

24 A. Yes. The actual face value of the  
25 prescription itself, did it look like it was

1     legitimate in the mind of a licensed  
2     pharmacist.

3             Q.     All right. Anything else that you  
4     recall you had in mind from a compliance  
5     perspective with regard to pharmacists trying to  
6     detect suspicious orders or unusual usage or  
7     questionable disposition of prescriptions  
8     besides the DUR and looking at the face value of  
9     the prescription?

10            A.     Well, the actual patient  
11     themselves. I mean, if a patient came in and  
12     looked like they were loaded or high, should I  
13     say, I wouldn't dispense it.

14            Q.     Okay. I just want to make sure I --

15            A.     You know, those three factors, drug  
16     utilization review, actual prescription,  
17     patient character. Those are the three things  
18     I would be looking at.

19            Q.     And did you tell the pharmacies when  
20     you were doing the inspections that that's what  
21     you expected them to be doing in terms of  
22     complying with these code provisions?

23            A.     I said a lot of things when I was  
24     doing inspecting. I don't remember those three  
25     catch phrases. I'm sure they were part of

1       conversations, but I didn't specifically walk  
2       in and say this, this, and this.

3               Q.       If you go to the last page of  
4       Exhibit 5 -- and by last page, I mean last  
5       physical page.

6               A.       Which one?

7               Q.       Exhibit 5.

8               A.       Okay, I got it, 5.

9               Q.       It's Code Section 4729-9-02, Minimum  
10       Standards for a Pharmacy. Do you recall this  
11       code provision, Agent Pavlich?

12              A.       Yes.

13              Q.       And can you summarize for us what  
14       minimum standards for a pharmacy were from the  
15       Ohio Code perspective?

16              A.       Summarized would be that they have  
17       all the operational means available to them to  
18       practice pharmacy legally in the state of Ohio.

19              Q.       Is this something that you covered  
20       in your inspections, and that is that they were  
21       complying with this Ohio Administrative Code  
22       provision for minimum standards, that's  
23       something you specifically checked for?

24              A.       I would say yes.

25              Q.       They appear to cover things like

1 library, equipment, stock of drugs, prescription  
2 container, space and fixtures, hours and  
3 personnel. Is that something you looked at  
4 during your inspections, each of those items?

5 A. I would have. I wouldn't possibly  
6 document each and every single little thing on  
7 my inspection sheet, but if I walked in and  
8 they didn't have a law book, I would note  
9 library not up to standard. If they didn't  
10 have a way of documenting a prescription in a  
11 file, I would document it. If they didn't have  
12 lights on in the pharmacy, I would document it.  
13 But I didn't document each and every thing on  
14 every inspection I would observe.

15 Q. The last section -- or the next to  
16 last section refers to personnel, Subsection G.  
17 It says, "The pharmacy shall be appropriately  
18 staffed to operate in a safe and effective  
19 manner pursuant to Section 4729.55."

20 Did you look at things like the  
21 qualifications and licensing of the pharmacists  
22 and support personnel?

23 A. Always.

24 Q. Agent Pavlich, are you familiar with  
25 some pharmacies having what are called pharmacy

1 loss prevention departments?

2 A. Yes, I'm familiar.

3 Q. And do you recall specifically the  
4 pharmacy Defendants in this case having pharmacy  
5 loss prevention departments?

6 A. I'm not familiar with every single  
7 one of them, loss prevention, but I'm certain  
8 they had them.

9 Q. So, for example, Giant Eagle, do you  
10 recall an individual by the name of Rick Shaheen  
11 being the head of their pharmacy loss prevention  
12 department?

13 A. I do not.

14 Q. Do you recall working with Giant  
15 Eagle's loss prevention department in connection  
16 with pharmacy diversion matters?

17 A. I do not.

18 Q. What about any of the other pharmacy  
19 Defendants, Rite-Aid, CVS, Walmart, Walgreens?

20 A. I could tell you I probably spoke  
21 to people in their loss prevention chain --  
22 chains, but I primarily dealt with the  
23 pharmacist and the pharmacy supervisors. I  
24 didn't have too much to do with their loss  
25 prevention, unless I really had to, but I can't

1 speak accurately to that.

2 Q. All right. Understood.

3 Did you view having a loss  
4 prevention department as a good internal  
5 control to prevent theft and diversion?

6 A. No. I actually thought -- this is  
7 my opinion. I actually thought the loss  
8 prevention unit was more a facade than actually  
9 the staff pharmacist and the pharmacy  
10 supervisor who would be on-site. I didn't have  
11 much use for the loss prevention people.

12 Q. I see.

13 A. They didn't give me any  
14 information. They would never call my office  
15 or call me and say, hey, we see this, we see  
16 that. Everything they were doing was, in my  
17 opinion, internal. I can't recall one time  
18 getting a call.

19 Q. So you worked primarily with the  
20 pharmacists and the pharmacy supervisors rather  
21 than --

22 A. That's right.

23 Q. And is that because they were more  
24 on the ground in terms of your investigation?

25 A. That's who I held responsible. And

1     they weren't there. I have no idea where loss  
2     prevention was.

3                   MR. BARNES: I know we're breaking  
4     at 11:30, as agreed, for Mr. Appel, but we've  
5     been at it for an hour and 50 minutes and I  
6     think we should probably take a break, use the  
7     restroom, get some water, things of that  
8     nature.

9                   THE VIDEOGRAPHER: Going off the  
10    record at 10:50. This marks the end of media  
11    unit number 1. Thank you.

12                                 (Recess had.)

13                   THE VIDEOGRAPHER: We are back on  
14    the record at 11:00. This begins media unit  
15    number 2.

16    BY MR. BARNES:

17                 Q. Hello, Agent Pavlich. We're back  
18    after a short break.

19                   I want to direct your attention to  
20    the licensing issue. We spoke earlier about  
21    pharmacies needing to be licensed. Were you  
22    involved at all in the licensing process for  
23    pharmacies?

24                 A. The process? The only process I  
25    was involved in, it was sent to me and I would

1 bring it to a pharmacy to license them. I had  
2 nothing to do with anything down in the office.

3 Q. I see. So you were never part of  
4 the licensing division of the board in terms of  
5 processing applications and checking on  
6 qualifications and things of that nature?

7 A. No.

8 Q. Did you have an understanding of  
9 what it took to get a license to be a pharmacy  
10 in Ohio?

11 A. Not really.

12 Q. But in your inspections you checked  
13 to make sure that they had an active license?

14 A. My inspection involved that I would  
15 bring the TDDD license, the terminal  
16 distributor license, to a location that they  
17 said was a pharmacy, and I would walk in and  
18 look for a human being that had a Board of  
19 Pharmacy registration license that they were a  
20 pharmacist and then I would give them the  
21 license after my inspection.

22 Q. So you took the pharmacy license and  
23 manually handed it to the licensed pharmacist?

24 A. That is correct. If there was no  
25 pharmacist, they didn't get a license for a

1 pharmacy.

2 Q. I see. I take it you were also not  
3 involved at all with the licensing of the  
4 pharmacists themselves, that was something  
5 outside of your agent duties?

6 A. Totally outside my duty.

7 Q. But in your inspections you would  
8 check on the active status license for the  
9 pharmacist in charge; is that right?

10 A. I would ask them for their ID card  
11 or look at their ID card that would be on the  
12 wall with their board certificate, and look at  
13 its current status, if it was for the year  
14 2020, 2019, so on. And if they did not have  
15 one there, the ID card that would show it, not  
16 just the board plaque, I would call Columbus  
17 and ask if they had a valid license, because I  
18 caught a few pharmacists that weren't up to  
19 standard.

20 Q. Okay. If you look at Exhibit 6 in  
21 this binder, these are some code provisions,  
22 Ohio Revised Code provisions related to terminal  
23 distributor licenses, and I want to just ask you  
24 if you've seen them before.

25 A. I'm familiar with this code.

1           Q.       4729.54, the terminal distributor  
2 license provision?

3           A.       Yes, I'm familiar with this. Make  
4 note, though, it says 12-7-20, so this has been  
5 updated a lot I guess since I retired in 2012.  
6 There's -- there's changes to this probably and  
7 that's where it shows 12-7-20.

8           Q.       But in the -- in your 25 years as an  
9 agent, you understood that the revised code  
10 required pharmacies to have licenses, and in  
11 order to get a license, they had to submit an  
12 application to the board?

13          A.       I'm familiar with that.

14          Q.       Okay. Are you familiar with the  
15 couple pages after this first page? There's a  
16 provision 4729.55, Terminal Distributor License  
17 Requirements.

18          A.       I'm looking at it. I don't know  
19 how familiar I am with this particular section,  
20 but go ahead.

21          Q.       Well, let me ask you this generally.  
22 I understand that you retired in 2012, but what  
23 did you understand the pharmacy license  
24 requirements to be generally?

25          A.       A pharmacy license was a document

1     that authorized them to dispense and sell  
2     prescription and controlled substances from  
3     that location and to document the sale and  
4     dispensing of those substances from that  
5     location.

6           Q.     Okay. If you look at .55, 4729.55,  
7     you see there's a list of requirements to get a  
8     license, and the first requirement, under A, is  
9     "equipped as to land, buildings, and equipment  
10    to properly carry on the business of a terminal  
11    distributor of dangerous drugs within the  
12    category of licensure approved by the board."  
13    Is that something that you recall being a  
14    pharmacy license requirement?

15          A.     Well, if they didn't have a  
16    building, they wouldn't have got a license,  
17    they wouldn't be on land and they would have to  
18    have equipment in order to proceed, so yes.

19          Q.     Okay. Under B it says, "A  
20    pharmacist, licensed healthcare professional  
21    authorized to prescribe drugs, other person  
22    authorized by the board will maintain  
23    supervision and control over the possession and  
24    custody of dangerous drugs and controlled  
25    substances that may be acquired by or on behalf

1 of the applicant."

2 Do you recall that being a  
3 requirement that -- for a pharmacy to have a  
4 licensed pharmacist on board to provide  
5 supervision and control over the dangerous  
6 drugs?

7 A. In a pharmacy a licensed pharmacist  
8 was required, yes.

9 Q. Okay. And Subsection C, "Adequate  
10 safeguards are assured to prevent the sale or  
11 other distribution of dangerous drugs by any  
12 person other than a pharmacist or licensed  
13 healthcare professional authorized to prescribe  
14 drugs," was that a requirement when you were an  
15 agent with the board, having adequate  
16 safeguards?

17 A. I would say, yes.

18 Q. Okay. And D references adequate  
19 safeguards to practice pharmacy in a safe and  
20 effective manner. Is your answer the same, that  
21 that was a requirement when you were an agent?

22 A. Yes.

23 Q. If you flip to the next page,  
24 4729.551, the Licensing of Retail Sellers, is  
25 this a general license requirement for all

1 retail pharmacies?

2 A. That's what it says.

3 Q. Could pharmacies be disciplined if  
4 they failed to comply with the board's -- the  
5 Ohio laws and the board's rules related to the  
6 operation of a pharmacy?

7 A. Yes.

8 Q. Could the license be suspended or  
9 revoked, restricted or limited for failure to so  
10 comply?

11 A. Yes.

12 Q. If you look at the next page on  
13 this, 4729.57, Disciplinary Actions - Terminal  
14 Distributor, are you familiar with that code  
15 provision or were you familiar with it when you  
16 were an agent?

17 A. I'm familiar with it.

18 Q. And do you recall that being  
19 something that could occur if you found  
20 violations in the pharmacies, you could cause  
21 the pharmacy license to be suspended or revoked  
22 if the violation was serious?

23 A. I could send a report down to the  
24 board and they could cause it.

25 Q. Right. But you would be the one

1 finding the violation and instigating the  
2 matter, right?

3 A. I would write a report and send it  
4 down, and if they determined it was valid, we  
5 would proceed with disciplinary action.

6 Q. And did that happen from time to  
7 time in your career, you caused a pharmacy  
8 license to be suspended or revoked because of a  
9 violation of board rules?

10 A. Yes.

11 Q. In order to get a license renewed by  
12 the board, a pharmacy has to show continuing  
13 compliance with board rules and regulations; is  
14 that correct?

15 A. They'd have to send their money in  
16 first and then they'd get consideration.

17 Q. So there's a fee, but it's not a  
18 question of you just have to comply at the time  
19 of the original license, you have to continue to  
20 comply to get renewed; is that correct?

21 A. To whatever standard they require  
22 down at the board office. It had nothing to do  
23 with me.

24 Q. Okay. There's a licensing renewal  
25 provision in 4729.58. It's the last page of

1 Exhibit 6. Do you recognize this provision?

2 A. I'm not familiar with it, but it's  
3 in front of me.

4 Q. Now, the board also had a division  
5 that regulated and licensed the pharmacists,  
6 correct?

7 A. Yes. I don't know if you would  
8 call it a division or a person.

9 Q. Is Exhibit 7 -- do you recognize  
10 these code provisions that govern the practice  
11 of pharmacists, including license applications,  
12 examinations and qualifications? Is that  
13 something that you were familiar with?

14 A. No.

15 Q. No, you weren't familiar with that?

16 A. I had nothing to do with their  
17 applications or their examination, zero  
18 involvement.

19 May I say something?

20 Q. Sure, if it's part of your answer.

21 A. As I'm sitting here thinking with  
22 my little brain, you know, I think I testified  
23 earlier that I didn't have no conversation with  
24 anybody, but I did speak with -- what was it,  
25 two days ago -- Attorney Appel and Nicole,

1 board staff lawyer, or chief lawyer. You know,  
2 I don't want it to be misconstrued that I  
3 didn't talk with anyone. I did speak with them  
4 on the telephone. Or no. I did it on a Zoom.  
5 I did it on a Zoom with them. And there was  
6 one other attorney there, too, from the board  
7 office, but I don't recall her name. I don't  
8 want you to think I didn't talk to anybody. It  
9 was like 40 minutes.

10 Q. Okay. And that was to prepare for  
11 your deposition?

12 A. I don't know if it was so much  
13 prepare, just talk about a couple things. It  
14 wasn't really -- I didn't even look at the  
15 folder with them. I didn't look at anything  
16 with them. We just talked in generalities, was  
17 I comfortable, do I understand, you know, what  
18 my duties were when I worked, is my memory bank  
19 still functioning, those type of things. Never  
20 looked at an exhibit with them, no, never, not  
21 one time.

22 Q. Are those the only attorneys that  
23 you spoke to about your deposition?

24 A. Those three, two females and a  
25 male.

1 Q. All at the Board of Pharmacy?

2 A. Well, they were at their homes. I  
3 don't know if they're all affiliated with the  
4 Board of Pharmacy.

5 Q. But you understood them to be  
6 lawyers representing the Board of Pharmacy?

7 A. I understood two of them to work  
8 for the Board of Pharmacy and one being from  
9 the AG office, but I could be wrong there.

10 MR. APPEL: Bob, this is Henry  
11 Appel. I'll represent that it was Michelle  
12 Siba, Nicole Dehner and I spoke with the  
13 witness a couple of days ago with general  
14 witness prep and I did at least speak briefly  
15 with the witness this morning prior to his  
16 testimony.

17 MR. BARNES: Okay.

18 Q. Mr. Pavlich, are you familiar with  
19 the Ohio code provisions that regulate the  
20 practice of pharmacies, specifically in terms of  
21 what pharmacists and pharmacies are supposed to  
22 do and comply with?

23 A. I'm sure there's a standard in  
24 place, but I'm not familiar with it at this  
25 point.

1           Q.       Okay. Do you recall as an agent --  
2       did you believe that the practice of pharmacy  
3       involved the exercise of professional judgment  
4       by pharmacists?

5           A.       Absolutely.

6           Q.       In what regard did it involve the  
7       exercise of professional judgment?

8           A.       A pharmacist is a healthcare  
9       professional who graduated from a licensed  
10      institution for the practice of pharmacy, and  
11      they are to use all of their training and  
12      expertise to dispense prescriptions prescribed  
13      legitimately, with a corresponding  
14      responsibility to the manner of issuance for a  
15      legitimate prescription. That's what I would  
16      think.

17          Q.       Okay. Do you recall any code  
18      provisions that defined the practice of pharmacy  
19      and what it meant to exercise professional  
20      judgment specifically?

21          A.       You're really testing my memory  
22      here. I would say 4729-5-30, Manner of  
23      Issuance, pretty well covers corresponding  
24      responsibility of a pharmacist to a prescriber  
25      for legitimate practice by the prescriber and

1 dispensing by a pharmacist. That code I used  
2 extensively. That's why I remember it so well.

3 Q. Well, look at Exhibit 8. I just  
4 want to make sure I have your testimony as to  
5 whether or not you recognize these code  
6 provisions or don't recognize them. Exhibit 8,  
7 the first pages are 4729.01 of the revised code.

8 Do you recognize this code  
9 provision?

10 A. It's been updated, but I'm in  
11 belief that it was there when I worked.

12 Q. Do you see under Subsection B it  
13 speaks of "'Practice of pharmacy' means  
14 providing pharmacist care requiring specialized  
15 knowledge, judgment, and skill derived from the  
16 principles of biological, chemical, behavioral,  
17 social, pharmaceutical and clinical sciences"?  
18 I'll stop right there. Is that something that  
19 you recall as an agent, knowing that the code  
20 had this definition of what it meant to practice  
21 pharmacy?

22 A. Not all those specifics.

23 Q. What do you recall, if not those  
24 specifics?

25 A. That a pharmacist shall

1     legitimately dispense prescriptions authorized  
2     by a legitimate prescriber and they use their  
3     knowledge and expertise in dispensing  
4     prescriptions. All these other words that are  
5     coming into play here, maybe the pharmacists  
6     used them, maybe they didn't, individual basis.

7           Q.     There's a listing here of what  
8     pharmacist care means, and it includes  
9     interpreting prescriptions. Is that something  
10    that you recall when you were an agent, that  
11    that's something that pharmacists did?

12          A.     Yeah. They would interpret a  
13    prescription.

14          Q.     And they dispensed drugs and drug  
15    therapy-related devices; is that right?

16          A.     Yes.

17          Q.     They compounded drugs?

18          A.     Not all of them. That would be few  
19    and far in between as a norm, though they were  
20    all capable of it I'm sure.

21          Q.     Did they provide counseling to  
22    individuals regarding drug therapy?

23          A.     Yes.

24          Q.     All I'm getting at is, if you don't  
25    recall the specific code section, are these

1 things that pharmacists did when you were  
2 involved as an agent, these were part of the  
3 professional practice of pharmacy?

4 A. I would hope so. If they didn't, I  
5 would take action.

6 Q. Okay. You mentioned a couple of  
7 times the manner of processing prescriptions.  
8 If you flip to Exhibit 10 --

9 A. Manner of Issuance, but go ahead.  
10 10, I'm there. That's it. No. That's manner  
11 of processing a prescription. I thought it was  
12 4729-5-11, but who knows. They could have  
13 changed things.

14 Q. All right. I just want to go  
15 through this. Do you recognize Exhibit 10 as  
16 containing code provisions from the Ohio  
17 Administrative Code governing the manner of  
18 processing prescriptions that pharmacists were  
19 required to follow?

20 A. I don't remember it stated this  
21 way, but go ahead.

22 Q. All right. Let's look at A. "A  
23 prescription, to be valid, must be issued for a  
24 legitimate medical purpose by an individual  
25 prescriber acting in the usual course of his/her

1 professional practice."

2 Do you recall that code provision?

3 A. Yeah, I remember those words.

4 Q. And what did it mean to you as an  
5 agent that the prescriber, an individual  
6 prescriber acting in the usual course of his or  
7 her professional practice? How did you  
8 interpret this language?

9 A. The prescriber would have to be  
10 licensed and they would issue a prescription  
11 for a legitimate medical purpose in the course  
12 of an examination of the patient.

13 Q. And is it an accurate statement,  
14 then, Agent Pavlich, that the primary  
15 responsibility for issuing a prescription rests  
16 with the initial prescriber, the doctor who  
17 examines the patient?

18 A. No. It can also rest with the  
19 person who has a corresponding responsibility  
20 to that physician who dispenses medications to  
21 a patient.

22 Q. Right. We'll get to that. That's  
23 the second sentence.

24 A. Well, you asked me primarily and I  
25 think it's twofold.

1           Q.       All right. But the prescriber  
2       issues the prescription, and under paragraph --  
3       the first sentence of paragraph A, is it the  
4       prescriber's initial responsibility to issue  
5       valid prescriptions for legitimate medical  
6       purposes? Now we'll get to the second sentence.  
7       I'm just trying to see what your interpretation  
8       is of the first sentence.

9           A.       Yeah, the prescriber would have to  
10      issue a valid prescription.

11          Q.       Okay. All right. The beginning of  
12      the second -- I'm sorry. The second sentence  
13      says, "The responsibility for the proper  
14      prescribing is upon the prescriber."

15                   Are you with me so far?

16          A.       Gotcha.

17          Q.       But there's a reference to "A  
18      corresponding responsibility rests with the  
19      pharmacist who dispenses the prescription," and  
20      you've mentioned that several times. Is that  
21      the source of the corresponding responsibility?

22          A.       That was part of my bible, yes.

23          Q.       "An order purporting to be a  
24      prescription issued not in the usual course of  
25      bona fide treatment of a patient is not a

1 prescription and the person knowingly dispensing  
2 such a purported prescription, as well as the  
3 person issuing it, shall be subject to the  
4 penalties of law."

5 Did you have cause in your career  
6 to enforce these provisions on prescribers and  
7 pharmacists?

8 A. Many times.

9 Q. Did you investigate and prosecute  
10 doctors for failing in their responsibility to  
11 issue legitimate prescriptions?

12 A. Many times.

13 Q. Did you investigate and prosecute  
14 pharmacists for failing to meet their  
15 corresponding responsibility?

16 A. Also many times.

17 Q. Okay. There's a reference in here  
18 to the person -- "and the person knowingly  
19 dispensing such a purported prescription, as  
20 well as the person issuing it, shall be subject  
21 to the penalties of law." What does the term  
22 "knowingly" mean in that provision based upon  
23 your experience as an agent?

24 A. You're talking a person knowingly  
25 dispensing such a purported prescription, is

1     that what you're referring to?

2             Q.       Yes. I'm focusing on the term  
3     "knowingly." What, in your experience as an  
4     agent, did that mean in terms of your  
5     investigations and prosecutions?

6             A.       Knowingly is one of the four  
7     culpable mental states, so that's the second  
8     highest tier. Purposefully is the highest  
9     tier. So to me that's a pretty high  
10    requirement, knowingly dispensing. Not  
11    negligently. It's knowingly.

12            Q.       And what would the pharmacist have  
13    to know in order to have it be a violation of  
14    the law?

15            A.       That they're knowingly giving  
16    medication, controlled or a dangerous drug, to  
17    a patient based upon a valid prescription.  
18    They know it by the document in front of them.  
19    And if they don't, they need to make a phone  
20    call or you verify what you have.

21            Q.       Is it accurate to say that  
22    pharmacists, in order to violate that provision,  
23    would have to know that the prescription was not  
24    legitimate?

25            A.       Well, knowledge, yes.

1 Q. If you focus --

2 A. There are mistakes. And I will  
3 tell you that -- I mean, I'm human. I've made  
4 mistakes. Whether it's they're busy, they're  
5 not paying attention, they're distracted. We  
6 all make mistakes. But not -- as I -- as I  
7 would speak to pharmacists, I would tell them,  
8 "Hey, anybody can fill a bad script, it could  
9 get by, I understand, but when you fill one and  
10 you fill two and you fill ten and you fill 20,  
11 then that's not a mistake." But I could see  
12 error in judgment on things, and that happens.  
13 I used to miss stuff, and I'm far from being a  
14 pharmacist, but, as they say, shit happens.

15 Q. These code provisions continue in  
16 paragraph B and it sets forth five subsections  
17 that a pharmacist, when dispensing a  
18 prescription, must do, and in order of listing,  
19 "Ensure that patient information is profiled  
20 pursuant to Rule 4729-5-18. Can we call that  
21 the patient profile requirement?

22 A. Yes.

23 Q. And what did you understand that to  
24 mean? If it helps, these code provisions are  
25 right behind these pages. 4729-5-18 is called

1 Patient Profiles, and it's right behind Section  
2 5-21, if it helps refresh --

3 A. With reference to 18, that whatever  
4 they were dispensing was being prepared in a  
5 patient profile, in other words, the date, the  
6 drug, the quantity, the doctor, so on and so  
7 forth. That's a profile.

8 Q. So part of this code provision as to  
9 how pharmacists are supposed to dispense  
10 medications, prescriptions, the number one step  
11 is have a patient profile that meets certain  
12 requirements in Code Section 5-18, correct?

13 A. Correct.

14 Q. Is that something that you looked  
15 for in your inspections, to make sure that the  
16 pharmacies had patient profiles in their  
17 systems, either computerized or otherwise?

18 A. Yes, computerized or, like in my  
19 early career, manually a lot of times --

20 Q. Okay.

21 A. -- which would be a paper copy, a  
22 paper profile.

23 Q. So you were enforcing these code  
24 Sections, 5-21 and 5-18, during your  
25 inspections, correct?

1           A.       Yeah, I would be looking at them.

2           Q.       The second step says, "Perform  
3       prospective drug utilization review pursuant to  
4       4729-5-20."

5                   MR. BARNES:   And we'll have to stop  
6       there because we promised Mr. Appel that we  
7       would take a half-hour break so he can take  
8       care of some personal matters, so we'll take --  
9       we're going to take our lunch, I guess, 11:30  
10      to 12:30, and resume at 12:30.

11                  THE WITNESS:   Whatever you need.   I  
12      can go if you want.

13                  MR. BARNES:   No.   We told Henry --  
14      he needs a half hour, I think, to take care of  
15      some childcare matters.   Is that right, Henry?

16                  MR. APPEL:    Yes.   I've got to get a  
17      kid on the bus by noon and make sure he's fed  
18      and ready.

19                  MR. BARNES:   All right.   We'll see  
20      everybody at 12:30.

21

22                               (Luncheon recess taken.)

23

24

25

1 THE VIDEOGRAPHER: We are back on  
2 the record at 12:31 and this marks the  
3 beginning of media unit number 3.

4 - - - - -

5 AFTERNOON SESSION

6 CONTINUED EXAMINATION OF GEORGE P. PAVLICH  
7 BY MR. BARNES:

8 Q. Good afternoon, Mr. Pavlich. We're  
9 back after a lunch break, and when we left, we  
10 were dealing with Exhibit 10, 4729-5-21, Manner  
11 of Processing a Prescription, and we were on  
12 Section B(2), the second step of what the  
13 regulation requires a pharmacist to do, and that  
14 says, "Perform drug utilization review pursuant  
15 to 4729-5-20."

16 Is that what you recall being the  
17 second step of the regulatory requirement for  
18 processing a prescription?

19 A. Yes.

20 Q. Now, a couple pages back is Section  
21 5-20, Prospective Drug Utilization Review. Are  
22 you with me?

23 A. I'm with you.

24 Q. Okay. And you see that this sets  
25 forth, I'll call it, the DUR requirements, which

1 is step one of the manner of processing  
2 regulation. Does this regulation look familiar  
3 to you and is it something that you were aware  
4 of as part of your enforcement and compliance  
5 inspections?

6 A. I'm aware of it, yes.

7 Q. Okay. And the DUR process, I think  
8 you told us a little bit about that earlier.  
9 The DUR process includes things like evaluating  
10 over-utilization or under-utilization,  
11 therapeutic duplication, drug disease state  
12 contraindications, drug-drug interactions,  
13 incorrect drug dosage, drug allergy  
14 interactions, abuse/misuse, inappropriate  
15 duration of drug treatment, and food-nutritional  
16 supplements. Is that how you understood DUR  
17 when you were an agent?

18 A. Those are things the pharmacists  
19 would be doing with their DUR. I didn't get  
20 into all of those specifics.

21 Q. But you knew that that was something  
22 that the DUR encompassed from a regulatory  
23 standpoint; is that correct?

24 A. Yes.

25 Q. And this DUR regulation continues in

1 B, subsection B. It says, "A pharmacist, using  
2 professional judgment, shall take appropriate  
3 steps to avoid or resolve the potential  
4 problem." I guess if there is a problem. It  
5 says, "These steps may include requesting and  
6 reviewing an OARRS report or another state's  
7 report, pursuant to paragraph (D) of this rule,  
8 and/or consulting with a prescriber and/or  
9 counseling the patient."

10 What do you understand this  
11 provision of the DUR regulation to require a  
12 pharmacist to do? And I'm specifically talking  
13 about when you were doing your inspections.

14 A. Responsibility was solely to the  
15 pharmacist who dispensed the prescription and  
16 manually initialed and placed their initials on  
17 a prescription. They had the responsibility of  
18 what they dispensed off of that prescription,  
19 not the four other or two other pharmacists  
20 working in there. They were responsible for  
21 that prescription.

22 Q. And this regulation, Subsection B,  
23 references professional judgment, which we've  
24 talked about, and it says it may include  
25 requesting and reviewing an OARRS request or

1 another state's report. And so part of the DUR  
2 process could include an OARRS report under some  
3 circumstances. Is that how you understood it,  
4 that it was within the professional judgment of  
5 the pharmacist to request an OARRS report?

6 A. Yes.

7 Q. And, similarly, it was also within  
8 the professional judgment of the pharmacist,  
9 depending upon his DUR review, to either consult  
10 with the prescriber and/or counsel the patient?  
11 I mean, that's -- I'm just reading the  
12 regulation, but is that how you understood it,  
13 that as part of the DUR process, it was up to  
14 the pharmacist to determine whether or not he  
15 was going to investigate any problems -- in his  
16 judgment he could either consult with the  
17 prescriber or counsel the patient?

18 A. Yes.

19 Q. Down below, in Subsection D, it  
20 references requesting an OARRS report, and it --  
21 under D, 1 through 6, there are six factors or  
22 conditions here for when the pharmacist should  
23 request an OARRS report. Now, I know you  
24 retired in March of '12, but I want to ask you,  
25 do you recognize any of these six conditions as

1     being applicable for when you were an agent?  
2     And I know OARRS was in place for about six  
3     years when you were an agent. So take a look at  
4     1 through 6 and see if they jog your memory as  
5     to something that was in -- was applicable in  
6     the last six years of your career.

7             A.     What attachment is this?

8             Q.     I'm sorry?

9             A.     What attachment are we talking  
10     about here?

11            Q.     We're talking about Exhibit 10 and  
12     we're on the page -- approximately page 4,  
13     4729-5-20.

14            A.     Wait a minute. Okay. I'm there.

15            Q.     Down at the bottom, the bottom third  
16     of the page is Subsection D. Do you see that?

17            A.     Yes, I see it.

18            Q.     And underneath D, there's D-1  
19     through D-6, and I wanted you to take a look at  
20     the 1 through 6 and tell me for each one if  
21     that's something that you remembered being part  
22     of the regulations when you were an agent.

23            A.     Well, I don't know if they were all  
24     there when I was an agent because this thing is  
25     effective 3-1-2017 on the back page of that.

1           Q.       Correct, but below that there's  
2 prior effective dates going all the way back to  
3 '76.

4           A.       Yeah, I see that. So I'm saying I  
5 don't know to what extent it is the same as  
6 when I was an agent.

7           Q.       So --

8           A.       I'm looking at them.

9           Q.       Okay. For example, number 1 says,  
10 essentially, check OARRS if a patient adds a new  
11 or different reported drug. Is that something  
12 that you recall?

13          A.       No. I don't know how a patient  
14 would add a new or reported drug to their  
15 therapy that was not previously included unless  
16 they brought in a new prescription and that's  
17 their way of reporting it. You know, I don't  
18 understand what one means.

19          Q.       What about two, an OARRS report has  
20 not been reviewed for the patient during the  
21 preceding 12 months; do you recall that  
22 requirement or that condition for requesting an  
23 OARRS report?

24          A.       I don't recall a time frame as to  
25 if it was every patient they had to do an OARRS

1 report or every five dispensings or ten. I  
2 don't recall what the exact requirement was.  
3 That's what this says but I don't recall this.

4 Q. Well, number three and four speak of  
5 a prescriber or a patient being located outside  
6 the usual pharmacy geographic area.

7 Do you see those two things?

8 A. I see them.

9 Q. Did you have any understanding of  
10 what it meant to be outside the usual pharmacy  
11 geographic area?

12 A. Oh, I understand what it means.

13 Q. What does it mean in your  
14 experience?

15 A. Well, if a patient is coming to  
16 Mahoning County with a prescription from  
17 Florida, from Ashtabula, Lake County, and I was  
18 a pharmacist, I would be questioning why are  
19 you driving all this distance or why are you  
20 obtaining a prescription, especially a  
21 controlled substance prescription, from such a  
22 long geographic area. I would be calling it  
23 into question.

24 Q. Okay. Did the board have a set  
25 number of miles that defined the term "outside

1 the usual pharmacy geographic area" --

2 A. No.

3 Q. -- or was it subjective based upon  
4 pharmacy judgment?

5 A. Based on judgment.

6 Q. Okay. So whether a prescriber or a  
7 patient is outside the usual pharmacy geographic  
8 area is something that was up to the pharmacist  
9 to determine based upon his knowledge and  
10 experience?

11 A. Yes. I mean, if a pharmacist in a  
12 pharmacy in Mahoning County got a prescription  
13 from the Cleveland Clinic from a pain  
14 management doctor, it would come to my  
15 attention if I was looking at the  
16 prescriptions, but I wouldn't null and void it.  
17 But if it came from a general practice doctor,  
18 family practice doctor, from Cleveland, and  
19 they're filling it in Mahoning County, that  
20 would draw attention to me.

21 Q. And so under this regulation, that  
22 if those types of factors are present in the  
23 judgment of the pharmacist, what he's supposed  
24 to do under the regulation is check OARRS; is  
25 that correct?

1           A.       That would be one thing.

2           Q.       Well, that's why I'm looking  
3 specifically at the regulation. Subsection D  
4 says, "Prior to dispensing an outpatient  
5 prescription for a reported drug, the pharmacist  
6 shall request and review an OARRS report  
7 covering at least the one-year time period," and  
8 then it lists the six types of circumstances.  
9 So what I'm getting at is, if a pharmacist  
10 thinks the prescriber is outside the usual  
11 pharmacy geographic area, what he's supposed to  
12 do in his judgment is to say I'm going to check  
13 OARRS or I should check OARRS, according to the  
14 regulation, right?

15                   MR. WEINBERGER: Objection to form.  
16                   Go ahead.

17           Q.       You can answer.

18           A.       Well, if it was the first time the  
19 patient walked in the pharmacy, and it was the  
20 beginning of their career to divert drugs, and  
21 the pharmacist runs an OARRS report and they  
22 had never seen another doctor or diverted any  
23 drugs by any means, the OARRS report is going  
24 to show nothing, and then if they did it,  
25 covering at least a one-year period or whenever

1     they do it again, they would have no knowledge  
2     the first time the patient walked in the  
3     pharmacy if it was the first time.

4             Q.       I understand. That's a function of  
5     how the OARRS database works, though, right?

6             A.       Yeah. I mean, that's -- what's  
7     inputted is what's kicked back, so the  
8     beginning of someone doing something may not  
9     show, but if they run it a year later or six  
10    months later and this person is on the road to  
11    destruction, it may come up. It will come up,  
12    not may. It will.

13            Q.       But from pharmacy to pharmacy and  
14    the pharmacist to pharmacist, applying this  
15    regulation -- this regulatory term, "outside the  
16    usual pharmacy geographic area," is a  
17    pharmacy-specific and pharmacist-specific facts  
18    and circumstances judgment call; am I correct?

19                   MR. WEINBERGER: Objection.

20            A.       Yes.

21            Q.       Paragraph five says, "A pharmacist  
22    has reason to believe the patient has received  
23    prescriptions for reported drugs for more than  
24    one prescriber in the preceding three months,  
25    unless the prescriptions are from prescribers

1     who practice at the same physical location."

2                     How did you understand that  
3     provision to operate when you were an agent?

4             A.     Well, that's the initial flag as to  
5     patients seeing multiple doctors and getting  
6     multiple controlled substances. It doesn't  
7     necessarily mean, when you see two different  
8     prescribers on a patient, that it's taboo,  
9     because a patient can go to a family practice  
10    doctor and then also be seeing a pain  
11    management doctor, could also be seeing someone  
12    else, but those doctors then should be having  
13    conversation as to what they're prescribing for  
14    their specific patient. If a family practice  
15    doctor is prescribing opiates, hopefully the  
16    pain management doctor isn't, or is in  
17    conjunction with that prescribing of the first  
18    doctor. That's my understanding. And it would  
19    catch my attention right away when I look at a  
20    profile and I would see one, two, three, four  
21    different doctors. And if I then saw similar  
22    opiates, you know, like an oxycodone or a  
23    Methadone or a hydromorphone, it would really  
24    get my attention then.

25            Q.     Right. And then you would want to

1     investigate further to see if those  
2     prescriptions were legitimate by talking to  
3     doctors?

4             A.     I had a set form that I would go  
5     see the doctor with and it had like eight  
6     questions or so specific to what I wanted to  
7     know; were you aware looking at this profile of  
8     this doctor when you were prescribing this  
9     medication similar to that doctor, and they  
10    would yes or no me and proceed with my  
11    investigation by what their answers were.

12            Q.     Well, in your experience, how would  
13    a pharmacist have reason to believe that the  
14    patient has been -- has received prescriptions  
15    for reported drugs from more than one prescriber  
16    in the preceding three months?

17            A.     Well, before OARRS, pharmacists  
18    used to communicate with each other, and -- or  
19    they would get a prescription and maybe it  
20    might have a mark on it from, let's say, a  
21    Rite-Aid, and they bring it to a Walgreens, and  
22    the pharmacist sees that they went to a  
23    Rite-Aid, so they're going to call it, but it  
24    wasn't dispensed, and ask them, hey, why didn't  
25    you dispense this drug, and the pharmacist said

1 for various reasons and explained to them. And  
2 then that pharmacist may or may not fill that  
3 prescription. Maybe they didn't have that drug  
4 in stock. I mean, there's various factors that  
5 come into play. But when OARRS came into  
6 existence, it was a whole different utilization  
7 review process.

8 Q. Okay. And then the last factor,  
9 number six, "Patient is exhibiting signs of  
10 potential abuse or diversion. This includes,  
11 but is not limited to, over-utilization, early  
12 refills, appears overly sedated or intoxicated  
13 upon presenting a prescription for a reported  
14 drug, or an unfamiliar patient requesting a  
15 reported drug by specific name, street name,  
16 color, or identifying marks."

17 How did you understand that portion  
18 of the regulation to operate?

19 A. Well, I would ask a pharmacist, if  
20 his patient is getting 900 Dilaudid, what's he  
21 look like when he walks in the pharmacy, you  
22 know, or -- you know, what was their condition,  
23 were they in there with anybody else, how did  
24 they pay for this prescription, did they pay  
25 cash or were they doing insurance. I mean,

1     there's various questions I would ask regarding  
2     these factors. And, I mean, I used to see some  
3     of these patients coming into these pharmacies  
4     and question the pharmacist myself; this guy  
5     doesn't look like he's consuming this quantity  
6     of drugs, what do you think, and proceed.

7             Q.     Did some of these things come up in  
8     the drug utilization review process? For  
9     example, over-utilization, that's something that  
10    was looked at in the DUR process?

11            A.     Yes.

12            Q.     And then these other factors,  
13    appears overly sedated or intoxicated, that's a  
14    fact-specific time of presentation of  
15    prescription factor, is that correct, and it's  
16    somewhat subjective?

17            A.     Well, that's the observation I  
18    guess you would say.

19            Q.     Okay. Go to Subsection G on the  
20    next page, if you flip the page over. We've  
21    seen this similar type provision. It's not  
22    exactly the same. But this is the -- another  
23    provision talking about the validity of a  
24    prescription must be issued for a legitimate  
25    medical purpose by an individual prescriber

1 acting in the usual course of his or her  
2 professional practice. We've seen that similar  
3 language elsewhere, correct?

4 A. Correct.

5 Q. And then it says, "The  
6 responsibility for the proper prescribing is  
7 upon the prescriber, but a corresponding  
8 responsibility rests with the pharmacist who  
9 dispenses the prescription. Based upon  
10 information obtained during a prospective drug  
11 utilization review, a pharmacist shall use  
12 professional judgment when making a  
13 determination about the legitimacy of a  
14 prescription."

15 So doing the drug utilization  
16 review, which is in the earlier portion of this  
17 regulation, based upon that information, did  
18 you understand that the regulation required the  
19 pharmacist to then use their professional  
20 judgment as to whether or not a prescription  
21 was legitimate?

22 A. Yeah. In some cases you didn't  
23 even have to. Yes, I understand the drug  
24 utilization review by a pharmacist, but in some  
25 cases you didn't even have to use the drug

1 utilization review to determine legitimate  
2 medical purpose. For an example, a dentist  
3 writing an Adipex, which is a weight  
4 amphetamine, that should come immediately into  
5 concern rather than even using a utilization  
6 review, or a family practice doctor prescribing  
7 multiple controlled pain medication  
8 prescriptions versus a pain management doctor.  
9 All of these factors would come into review by  
10 myself, not a pharmacist, and immediately  
11 should come to the attention of a corresponding  
12 responsibility of a pharmacist to a doctor.

13 Q. Okay. So you're saying there are  
14 some circumstances where you don't even need to  
15 do a DUR, there are certain things that would  
16 lead you to believe that they should call a  
17 prescription into question?

18 A. Right, not legitimate medical  
19 purpose. I mean, right on its face value would  
20 be called into question.

21 Q. But ultimately the pharmacist has to  
22 use their professional judgment based upon the  
23 information that they have, correct?

24 A. Yes, they should.

25 Q. And they're not required to dispense

1 a prescription of doubtful, questionable or  
2 suspicious origin? Do you see that final  
3 sentence in the regulation? In other words,  
4 they can exercise their professional judgment  
5 and refuse to fill or exercise their  
6 professional judgment and fill? Is that how you  
7 understood it?

8 A. You know, I held pharmacists to  
9 that expectation always; you're responsible,  
10 you put your initials, you dispense the drug,  
11 you're responsible. I had pharmacists,  
12 though -- I had a pharmacy supervisor one time  
13 tell me -- I remember -- specifically saying,  
14 "Well, he wrote it. We're just dispensing it."  
15 And I referred him back to corresponding  
16 responsibility. I remember distinctly talking  
17 to him about that. And he didn't know what to  
18 say then. And I remember bringing out the law  
19 book and putting it right in front of him, and  
20 said, "Yeah, really." And he passed. He's  
21 deceased now. He worked for one of your  
22 chains. And that pretty much solved my  
23 problems with pharmacists whenever they would  
24 say, "Well, I'm just dispensing it. You know,  
25 he wrote it." And I would go, "Yeah, really,

1 corresponding responsibility. What does that  
2 say?" That's how I addressed it.

3 Q. Okay. So you had to set some  
4 pharmacists straight on what their corresponding  
5 responsibility was from time to time?

6 A. Yeah. You know, it was -- there  
7 was some laxity before I became an agent with  
8 the board and Bob Cole became the agent  
9 supervisor. There was a lot of things going  
10 on, and Bob Cole, who was a former special  
11 agent with DEA, became my supervisor and  
12 everything changed. And we were told here's  
13 how you're going to handle these things, not  
14 like it was done in the past. And that's how  
15 we handled it. I mean, the older pharmacists  
16 were kind of set in their ways when I first  
17 came to the board, and they got a rude  
18 awakening when the first two agents, myself and  
19 Christopher Reed, were hired. Things changed.

20 Q. So beginning in 1987, the board got  
21 tougher on its enforcement of the Ohio rules and  
22 regulations?

23 A. Extremely tougher. Tim Benedict  
24 went down to Columbus. He was the pharmacist  
25 assigned to my geographic -- he went down,

1 became the number two guy. Frank Wickham was  
2 the director. He was a pharmacist. And we  
3 were told in short to go out there and enforce  
4 the criminal and administrative code, show no  
5 favoritism. And I showed no favoritism. If it  
6 was an independent or if it was a chain, I  
7 treated them all the same. I treated them all  
8 very fair. And I would tell them, "Your bible  
9 is that utilization and these prescriptions.  
10 You follow that, you'll never have a problem  
11 with me. You don't, deal with it."

12 Q. And that was a much stricter regimen  
13 than pre-1987; is that what you're saying?

14 A. Yeah, at least in my -- my  
15 knowledge. I mean, I wasn't here in 19 --  
16 before 1987. I was on the Youngstown Police  
17 Department.

18 Q. Okay. And did pharmacists get in  
19 line after 1987 with the new, stricter  
20 enforcement?

21 A. Oh, yeah. They realized who I was.  
22 I mean, I had a pharmacist supervisor one time  
23 tell me, "Are you a pharmacist," trying to  
24 intimidate me.

25 And I went, "No."

1                   And he goes, "Are you a health  
2 professional?"

3                   And I said, "No."

4                   And he said, "Well, who are you to  
5 tell me that I can't -- or can't dispense this  
6 or dispense this?"

7                   And I said, "I'm the guy that's  
8 going to put you in prison if you do."

9                   Never had another trouble with that  
10 pharmacist ever. So word spread.

11               Q.       Okay. Go back to 5-20 of this  
12 regulation, the prospective -- I'm sorry, not  
13 5-20. That's the prospective drug utilization  
14 review. There's another, 5-21, the first page  
15 of Exhibit 10. And we were going down the five  
16 steps for the prescription process. We're now  
17 on the third step, ensure the drug is labeled.  
18 What did you understand the labeling requirement  
19 to be? And if it helps, 5-16 is attached a  
20 couple pages behind here.

21               A.       Patient name, patient address;  
22 doctor's name, if controlled substance, the  
23 name of the drug, the quantity of the drug, day  
24 supply, refills if so noted, pharmacist  
25 initials.

1           Q.     Is that something that you checked  
2     in your inspections of the pharmacies, to make  
3     sure they were complying with this step three,  
4     manner of processing a prescription or meeting  
5     the labeling requirements?

6           A.     Yes.

7           Q.     The fourth step is "Ensure that a  
8     patient is given an offer to counsel pursuant to  
9     4729-5-22."

10                   Did you enforce the patient  
11     counseling regulation as part of your  
12     inspections?

13           A.     Yes.

14           Q.     And then the step five, the last  
15     step listed here, is "Ensure that a prescription  
16     is filed pursuant to 4729-5-09."

17                   Is that a recordkeeping requirement  
18     that you enforced in your inspections?

19           A.     Yes.

20           Q.     Mr. Pavlich, other than these five  
21     steps, are you aware of Ohio law or regulations  
22     requiring a pharmacist to follow any other steps  
23     other than these five listed steps in the  
24     regulation?

25           A.     I believe there's a section

1 somewhere that says they shall report to the  
2 Board of Pharmacy or local law enforcement  
3 criminal activity.

4 Q. Okay. But in terms of --

5 A. And/or theft of drugs.

6 Q. All right. But in terms of how they  
7 were supposed to process specific prescriptions,  
8 the regulation pretty specifically lists five  
9 separate steps, and my question to you is, are  
10 you aware of any other step that Ohio law said  
11 the pharmacist must follow in processing a  
12 prescription beyond these five steps?

13 A. I don't know unless you  
14 specifically direct me to it. I'm not aware.

15 Q. Now, Mr. Pavlich, the board had a  
16 right to randomly and, without notice, inspect  
17 pharmacies as a condition of getting their  
18 license from the board; is that correct?

19 A. Within their hours of operation,  
20 yes.

21 Q. I want to direct your attention to  
22 Exhibit 11, and this is Administrative Code  
23 Section 4729:5-3-03, Inspections and Corrective  
24 Actions.

25 Do you recognize this as the

1 regulation that empowers the Board of Pharmacy  
2 to send in agents to inspect pharmacies?

3 A. I am by looking at it.

4 Q. All right. Does it jar your memory  
5 as to this is the regulation that gave the board  
6 the authority to inspect?

7 A. To the best of my knowledge, yes.

8 Q. Paragraph A says that "An entity  
9 licensed by the State Board of Pharmacy as a  
10 terminal distributor of dangerous drugs is  
11 subject to an on-site inspection by the board."  
12 So these inspections you understood were  
13 physical visits by the agents to the stores, not  
14 remote, check the record type things, they were  
15 actually on-site inspections?

16 A. Right. An inspection is an  
17 on-site.

18 Q. It says, "An authorized board agent  
19 may, without notice, carry out an on-site  
20 inspection or investigation of an entity  
21 licensed by the board. Upon verification of the  
22 board agent's credentials, the agent shall be  
23 permitted to enter the licensed entity."

24 Is that how you recall it worked?

25 I guess you said you did 50 inspections a year

1 for about 25 years.

2 A. I mean, I was required to. I mean,  
3 I pretty much did the best I could to do 50 a  
4 year, full inspections. Wait a minute. Let me  
5 get out one of my Board of Pharmacy cards here,  
6 as a matter of fact.

7 Q. Are these the credentials you would  
8 show the pharmacist when you showed up?

9 A. Well, this is one of the cards I  
10 would give them. This is with my retirement  
11 stuff there. And it says, "You are requested  
12 to permit the above-named agent to inspect all  
13 drug stocks and records pursuant to ORC Section  
14 3719.27 and OAC Rule 4729-5-29." That was on  
15 my card. And when I would go to a pharmacy,  
16 I'd pretty much hand them my card and say, "I'm  
17 here to do an inspection," even if they knew  
18 me. I would pass these things out like lot  
19 lottery tickets.

20 Q. And were your inspections normally  
21 without notice?

22 A. Yeah. Yes.

23 Q. And was there a reason for that, why  
24 you did it without notice?

25 A. Well, I didn't want them to get all

1 tidy and neat before I walked in the door.

2 Q. Okay. So you would show your  
3 credentials, show your card, and then you had a  
4 full right under the Ohio laws to make a full  
5 inspection of the pharmacy?

6 A. Correct.

7 Q. Subsection B of this regulation  
8 says, "Submission of an application for a  
9 license as a terminal distributor of dangerous  
10 drugs with the State Board of Pharmacy  
11 constitutes permission for entry and on-site  
12 inspection by an authorized board agent."

13 Did you ever have to resort to that  
14 provision if you encountered resistance to your  
15 inspection?

16 A. I would generally say no. I'm not  
17 going to say that it never happened, that I  
18 didn't have a pharmacist or pharmacist try to  
19 throw us out, because it did happen.

20 Q. Okay. Do you recall any of those  
21 incidences as we sit here today or --

22 A. Oh, I remember very clearly Kinsman  
23 Pharmacy, which was an independent store. I  
24 walked in with my agent supervisor and two  
25 other agents and they got very confrontational

1 with us. They lost the pharmacy and both  
2 pharmacists lost their licenses over that and a  
3 few other things. But that was Kinsman  
4 Pharmacy and that was around late 1990s.

5 Q. In what county was Kinsman Pharmacy  
6 located?

7 A. Trumbull.

8 Q. And what were they doing that caused  
9 them to lose their license?

10 A. Trafficking in drugs, illegal  
11 processing of drug documents, a lot of that  
12 type of stuff.

13 Q. According to this regulation, if you  
14 as an inspector identified a violation -- and  
15 I'm looking at Subsection C -- you were supposed  
16 to provide a written report and you had a right  
17 to demand a written response from the pharmacy  
18 if you found a potential violation; is that  
19 right?

20 A. Yes. I would document what I  
21 found, whether it was minor, you know, like  
22 something minor. You know, not all the  
23 prescriptions have the pharmacist's manual  
24 initials. They had computer initials. So I  
25 would note it. If it was something major, I

1 might not say anything initially and leave the  
2 pharmacy and regroup or call my supervisor,  
3 should I say, and say, "I see a lot of problems  
4 in here. What do you think?" And then proceed  
5 at that time. But most normally I would  
6 document on the inspection sheet what was  
7 happening.

8 Q. We'll get to those in a second.

9 And if you found a violation -- or  
10 the violations could include violating any rule  
11 of the board or any provision of Chapter 4729  
12 of the code, as listed in the regulation here?

13 A. Yes. I usually would write that  
14 code down. I had -- I would try to be very  
15 thorough when I did an inspection and I wanted  
16 to bring something to the attention of the  
17 pharmacist. I wouldn't just say, "Hey, you  
18 don't have manual initials on here." I would  
19 put that code to that manual initial  
20 requirement. That's how I did it.

21 Q. One potential violation listed here  
22 is violation of any provision of the Federal  
23 Drug Abuse Control laws or regulations. So you  
24 were not only looking for violations of Ohio  
25 law, you were looking for violations of federal

1 law?

2 A. I would sometimes list both, yes,  
3 federal and state code; sometimes, not always.  
4 Like if -- I would give -- I couldn't find  
5 their DEA license or I couldn't find their 222  
6 forms, which was their order forms for ordering  
7 controlled substances, and I couldn't find them  
8 or I couldn't find the order they were in, you  
9 know, something like that, I might list the  
10 federal code, too.

11 Q. But you could cite a pharmacy for  
12 not complying with federal laws as well as Ohio  
13 laws, correct?

14 A. I could, but I didn't for general  
15 things. It wasn't my forte. I would go  
16 after -- I didn't go after smoke. I went after  
17 fires.

18 Q. Now, when you did your inspections,  
19 did you follow a manual? Did the board have a  
20 manual for its agents that provided what they  
21 were supposed to be doing in their inspections  
22 and the regulations and statutory citations that  
23 supported the different areas? Do you remember  
24 a manual of any sort or guidelines or checklists  
25 for inspections?

1           A.       No. I had a law book, which was  
2       called The Drug Laws of Ohio, and was about  
3       that thick (indicating), and all the codes and  
4       regulations, federal, state, administrative,  
5       you name it, was in it, and my boss told me go  
6       out and enforce them. I worked with him for a  
7       couple of months, got an idea what I needed to  
8       do, and that was it. There was no specific  
9       guideline other than what was on the inspection  
10      report, left column. You know, it had -- I  
11      don't know -- 20 things documented, license,  
12      different things, recordkeeping. You know, you  
13      kind of use it as a small guideline, but I did  
14      my own thing.

15           Q.       Well, Exhibit 12 has an inspection  
16      guide for outpatient pharmacies that was taken  
17      from the board website. Now, it's dated 2020,  
18      well after you retired. I just want to know if  
19      you've ever seen an inspection guide like this  
20      for when you were working at the board?

21           A.       Never.

22           Q.       Never?

23           A.       Never. We never had one of these.  
24      We were pretty much turned loose. Not  
25      everybody did inspections the same as each one,

1 as -- like I said, I tried to be very thorough  
2 on a full inspection, but I seen inspections by  
3 other agents, even when I was working and I  
4 would go I'd be ashamed to turn those in, and  
5 like one word, "okay." I mean, come on.

6 Q. You had higher standards for --

7 A. That was my personal way of doing  
8 what I did. I didn't want my boss in Columbus  
9 or during an administrative hearing or some  
10 other process bring something to my attention  
11 and say, "What's this mean?" I knew what I  
12 wrote because I wrote it up, at least I tried  
13 to. You know, I tried to be thorough. You  
14 know, I seen inspection reports and I'm like,  
15 boy, you're lucky I'm not your supervisor.

16 Q. Okay. Was there an inventory  
17 regulation that required the pharmacies to  
18 conduct inventories on a certain periodic basis?

19 A. Yes.

20 Q. Is it shown in Exhibit 13?

21 A. Yes, controlled substances  
22 inventory requirement. I think it was every  
23 two years, but don't hold me to that.

24 Q. Well, as of 3-1 of '19 it says  
25 annual now, but is it your recollection that

1 when you were an agent that it was two years?

2 A. It could have been one year. Off  
3 the top of my head I was saying two years they  
4 had to do one, but --

5 Q. Okay. And so that was a regulatory  
6 requirement, actually physically count your  
7 controlled substance inventories at least once a  
8 year, if not every two years?

9 A. Yes. The purpose of that was if I  
10 had to go in there and do an audit, I have a  
11 starting and an ending base.

12 Q. Okay. And Section D of this  
13 regulation says that the inventory records shall  
14 be maintained for a period of three years from  
15 the completion date of the inventory and made  
16 readily retrievable.

17 Is that your recollection of  
18 recordkeeping requirements imposed by the  
19 board, three years for inventory records?

20 A. Yeah, that sounds about right.

21 Q. Do you know why it was set at three  
22 years and not some other time period?

23 A. Pharmacists used to maintain  
24 records a lot more than three years, but --  
25 they would go like seven years, from what I

1 recall. Three years was usually the scope of  
2 what would be, in my case, a criminal  
3 investigation doing a fallback. I mean, if you  
4 can't figure something out within a three-year  
5 window, then you're not too good at what you're  
6 doing. So it might have been why that was in  
7 place. I don't know. I didn't write this.

8 Q. In your inspections did you ever  
9 recall seeing pharmacies do inventories more  
10 than annually, as required by the regulations?

11 A. I would say yeah, sometimes. If  
12 they had a theft of drugs or something, they  
13 would do an inventory. If they had something  
14 they found suspicious, like, you know, some  
15 recordkeeping problem, they would do an  
16 inventory.

17 Q. But if you -- if you had a pharmacy  
18 that was doing regular inventory, say on a  
19 monthly basis instead of yearly or biannually,  
20 did you view that as a good control?

21 A. I would view it as a good control.  
22 I know pharmacy supervisors or chains would go  
23 in there and do things like that.

24 Q. Now, the reason why you're here  
25 today, Mr. Pavlich, is because you conducted

1 some investigations of the retail pharmacies  
2 owned by the pharmacy Defendants, including  
3 Giant Eagle. Do you recall inspecting Giant  
4 Eagle pharmacies in Trumbull County?

5 A. I did.

6 Q. If you look at Exhibit 14, this is a  
7 table that I had prepared based upon inspection  
8 reports produced by the Board of Pharmacy, and  
9 you see you're listed number 2 under William  
10 Edwards, Trey Edwards -- you're listed as having  
11 conducted 21 inspections of Giant Eagle  
12 pharmacies from 11-26 of '91 to 12-1 of '11.  
13 None of them were done in Lake County and all 21  
14 were done in Trumbull County.

15 Do you see that?

16 A. I see it.

17 Q. Does that seem accurate to you, that  
18 the pharmacies that you inspected, the Giant  
19 Eagle pharmacies were all in Trumbull County and  
20 it was approximately 21 or so inspections in  
21 that 20-year time period?

22 A. Based on this, yes.

23 Q. Okay. And you didn't inspect Giant  
24 Eagle pharmacies in Lake County because that was  
25 not your area, your geographic area; is that

1 right?

2 A. That's correct, what would be  
3 called a normal, full inspection. I only did  
4 it in my county unless I was specifically sent  
5 somewhere to do something by my boss. I would  
6 do them only in my geographic.

7 Q. I see. Okay. Exhibit 16 are the  
8 inspection reports that you prepared for Giant  
9 Eagle pharmacies in Trumbull County. There's  
10 approximately, as I said, 21 of them. Have  
11 you -- Exhibit 16. Are you with me?

12 A. Okay, I gotcha.

13 Q. Do these appear to be your  
14 inspection reports signed by you on the dates  
15 indicated for your inspections of Giant Eagle  
16 pharmacies? In other words, is this your  
17 handwriting?

18 A. I'm looking. I'm looking. Those  
19 are my inspection signatures, yes.

20 Q. And your handwriting on the  
21 inspection reports; is that right?

22 A. Yes.

23 Q. Okay. Giant Eagle had six  
24 pharmacies in Trumbull County. Of the 21  
25 inspections that you did, 11 were done at store

1     number 1419 on Elm Road in Warren. How did you  
2     choose which pharmacies to inspect and on what  
3     periodic basis? How did you end up with 21  
4     inspections of the six Giant Eagle pharmacies in  
5     Trumbull County and how did you determine who  
6     was going to get inspected more or less?

7             A. I didn't determine who should get  
8     inspected more or less. I just -- in my  
9     travels -- let's say I was at an independent a  
10    couple blocks from one of the chains, so I  
11    might have been in that pharmacy six months ago  
12    and I'd go back in because it was convenient  
13    and close. I would try to do every pharmacy,  
14    though during that time period -- and that  
15    was -- I don't remember -- a year or two --  
16    sometimes I fell behind. I was pretty busy.  
17    But I didn't have any set pattern to go do one  
18    store more than another unless I had something  
19    specific I was looking at. Then I might be in  
20    there a few more times. But I didn't have any  
21    standard that I was going to go to Rite-Aids or  
22    Giant Eagle or Walgreens this month, that  
23    month, this year, that year. I did them as I  
24    did them.

25            Q. And, generally speaking, you would

1 try to inspect every pharmacy about every one to  
2 two years you said, give or take?

3 A. I tried but I didn't always fall --  
4 you know, I mean, I forget how many sites I  
5 had. I mean, I had first aid, EMS, pharmacies.  
6 You name it, I was responsible. I didn't do  
7 the hospitals. I didn't do nursing homes. But  
8 think of all the other facilities in those  
9 counties I had to inspect, issuing new  
10 licenses, and do 40 or 50 investigations that I  
11 carried at a time. So I did the best I could.

12 Q. Okay. The first inspection in  
13 Exhibit 16 is of a Giant Eagle in Niles, Ohio,  
14 store number 1405.

15 A. I know this pharmacist very well,  
16 excellent pharmacist.

17 Q. Who is the pharmacist?

18 A. Edward Louis Ting. He now runs an  
19 independent pharmacy in Kinsman, Ohio. At  
20 least when I retired he did. Excellent  
21 pharmacist. His father was a doctor.

22 Q. And by excellent does that  
23 include -- well, why don't you tell me what you  
24 mean by excellent?

25 A. When I walked in the pharmacy,

1     practiced professionally, was courteous, was  
2     not evasive, was everything I would do if I was  
3     a pharmacist and a state agent came walking  
4     into my pharmacy.

5             Q.     Was he always cooperative with you  
6     in the inspections?

7             A.     He was excellent.

8             Q.     Did Pharmacist Ting ever assist you  
9     or provide you with any leads concerning  
10    potential diversion at his pharmacy?

11            A.     He did.

12            Q.     And can you give me some examples of  
13    what he would give you leads on?

14            A.     Well, he gave me -- I know  
15    specifically on Kinsman Pharmacy. I mean, he  
16    worked hand and fist with me when I was doing  
17    that specific investigation. He owned an  
18    independent pharmacy in Kinsman. He wasn't  
19    working for Giant Eagle at that time. But  
20    Eddie Ting was well above board, never ever  
21    questioned anything. His wife is a pharmacist  
22    too, now that I think about it.

23            Q.     And the five times that you  
24    inspected this store, did you find Pharmacist  
25    Ting to be open and honest with you and fully

1 cooperative and provide you with whatever  
2 records you asked for?

3 A. Well, I guess it would be  
4 documented in my inspection report, what I  
5 found or knew. I can't remember every specific  
6 incident, but I always considered him an  
7 excellent pharmacist in generality.

8 Q. Okay. This first inspection report  
9 is way back in 1991, so this is -- it's going  
10 back some time. I've read this report and it  
11 includes a barricade report at the back of it.  
12 Am I correct that this was a clean inspection  
13 for this store at this point in time?

14 A. Yes.

15 Q. And so we see this index of 1  
16 through 35 items along the left. You referenced  
17 that earlier. Are these the areas of inspection  
18 that you had the right to inspect, in your  
19 judgment, every time you went in to one of the  
20 pharmacies?

21 A. Yes.

22 Q. And did you use your judgment, your  
23 best judgment, in picking whichever areas you  
24 were going to focus on, including in a full  
25 inspection? Was it up to you to say I'm going

1 to do these items and not those items for  
2 whatever reason, but something in your judgment  
3 that you were able to do as an agent?

4 A. I pretty much tried to follow that.

5 Q. Okay. And so if there was a problem  
6 in the inspection, it would be noted somewhere  
7 in the inspection report, perhaps as a follow-up  
8 item that you wanted the pharmacist to deal  
9 with, correct?

10 A. Yeah. It would just be an  
11 attention-drawing thing I might -- I wouldn't  
12 pink sheet him. There's two ways of doing it.  
13 Well, there's three ways. You could proceed in  
14 a criminal investigation. But a clean  
15 inspection would just document some highlights  
16 for the board's purpose, like what kind of  
17 hardware they have in the pharmacy for their  
18 computer system, what type of barricade they  
19 got, that type of thing. Then if I found  
20 something minor, you know, maybe a few  
21 prescriptions without manual initials, I might  
22 note it but I wouldn't pink sheet them. But if  
23 I found something a step above that, then I  
24 would issue them what's called a pink sheet,  
25 that came with white, green, pink and yellow, I

1 think, sheets, four-fold, and I would give them  
2 a pink sheet and they would have to write an  
3 explanation of how they were going to correct  
4 the deficiency as to what I noted on the pink  
5 sheet. That's pretty much it, yeah. I sort of  
6 followed that, but that wasn't written in stone  
7 that we had to, but that's what I did.

8 Q. Going forward in this exhibit, if  
9 you go about five or six pages into it, it's got  
10 a Bates number ending in 0646.

11 A. Where am I looking for, 0646?

12 Q. The bottom right. It starts with  
13 BOP\_MDL2800646. I'm just focusing on the last  
14 four numbers.

15 A. Okay, I got it. I got it. Giant  
16 Eagle at Elm Road.

17 Q. Yes. This is store 1419, personnel  
18 Daniel Yocum.

19 A. I remember him.

20 Q. Did you have the same opinion of  
21 Pharmacist Yocum that you did of Pharmacist  
22 Ting?

23 A. I believe I did. I don't remember  
24 him as well as I remember Pharmacist Ting, but  
25 I do recall his name. I recall his name. I

1 can't say as specific for Pharmacist Ting.

2 Q. Now, this is an inspection in March  
3 of '95. Is this also a clean inspection of this  
4 Giant Eagle pharmacy, 1419?

5 A. Yeah, but this might not have been  
6 a full inspection. This might have been just  
7 sort of a half walk-through. Let me see.  
8 Yeah, it was only an hour and a half. So you  
9 look at the other one, it was two hours with  
10 Ting. So, you know, I counted it as a full  
11 inspection, but it was a short full inspection.

12 Q. Page 2 of this inspection references  
13 controlled II drugs being secured in a pharmacy  
14 safe with a perpetual inventory completed daily  
15 and monthly. Why would you note the fact that  
16 controlled substances were being secured and  
17 were subject to perpetual inventories daily and  
18 monthly? Is that a factor that you found  
19 notable in your inspection?

20 A. I don't know why I noted it. It's  
21 been a long time.

22 Q. Are those good controls, to have  
23 perpetual inventories daily and monthly for  
24 controlled substances?

25 A. Yeah. It makes it easier when

1     you're looking.

2             Q.     And it's above the regulatory  
3     requirement, correct? We saw that --

4             A.     Right.

5             Q.     It's either annual or biannual.

6             A.     Right, four and above, but it's  
7     excellent.

8             Q.     Go forward to page 9944, a couple  
9     pages after the one we were just at. There's an  
10    inspection of Giant Eagle store 1405 in Niles,  
11    Ohio, Pharmacist Jeffrey Michael Mymo. Do you  
12    remember him?

13            A.     No, I do not. He's not the  
14    pharmacist that did this inspection with me.  
15    It was Rick Jeren. See the responsible person.  
16    That's his signature down there. Look, Rick --  
17    that's another pharmacist that worked in the  
18    store with him. I can't say I recall Rick  
19    Jeren.

20            Q.     Okay. Is this a clean inspection,  
21    Agent Pavlich, that Giant Eagle store?

22            A.     It's a clean inspection, but there  
23    was a complaint noted on here that I had to  
24    follow up on.

25            Q.     Did you follow up to your

1 satisfaction?

2 A. I did.

3 Q. And did it change your clean  
4 inspection conclusion for that store?

5 A. No. I didn't pink sheet him so it  
6 didn't change my perspective.

7 Q. All right. Go forward to page 0652.  
8 Is this another one of your inspection reports,  
9 this time for store 1419, 2-6 of '96?

10 A. Yes.

11 Q. And the responsible person is Brent  
12 Swipas. Do you remember him?

13 A. I remember him very well, and his  
14 wife was a pharmacist also.

15 Q. Was Mr. Swipas a cooperative  
16 pharmacist and assisted you in your inspection  
17 in any way he could?

18 A. Oh, yeah, Brent was a good  
19 pharmacist, excellent.

20 Q. Did he provide leads or tips for  
21 investigating diversion?

22 A. He did.

23 Q. And is this a clean inspection?

24 A. Well, to the extent to what I wrote  
25 here, I was primarily there for a large drug

1 destruction at that facility. That's what took  
2 up most of my time. That's why you see such a  
3 short inspection. But I noted that the last  
4 full inspection, I was in there in March of  
5 '95. So I was there more for drug destruction  
6 than I was for anything else.

7 Q. What happens in a drug destruction  
8 and why are you called in for a drug  
9 destruction?

10 A. I would be called in to document  
11 everything on the DEA -- I forget the name of  
12 the code -- or not the code, the number on that  
13 form. I would complete an entire drug listing  
14 of everything that was expired or whatever,  
15 update it and document it and then forward it  
16 off to DEA up in the Cleveland office and  
17 destroy all the drugs right there in the  
18 pharmacy, or in the bathroom, should I say,  
19 after I documented everything.

20 Q. There's a form, a DEA form attached  
21 about four pages in to this. It's 0658. Is  
22 this the DEA form you're talking about?

23 A. Oh, yeah, that's it. Brent Swipas  
24 has signed in on it.

25 Q. But why go through this? Why

1 doesn't the pharmacy or pharmacist just flush  
2 the drugs themselves? Why call you in and fill  
3 out this form and --

4 A. Because at the time we were  
5 required to go there and do this. We were  
6 required to do this. I mean, then it came to  
7 the point where pharmacists, with another  
8 accountable pharmacist, could do it. They  
9 would send a list down to the Board of  
10 Pharmacy, if I remember how this worked, and  
11 then the pharmacy board would send them a  
12 letter back granting them the ability to  
13 destroy the drugs. But in the beginning this  
14 is what we had to do.

15 Q. Is this part of the full accounting  
16 process for controlled substances?

17 A. Part of it, yes. They would keep  
18 this record for the three years or whatever, so  
19 in case there was an audit or whatever,  
20 accountability need, this would come into  
21 account.

22 Q. I see. Okay. The next inspection  
23 is on page 0660, this time of store 1419, and  
24 we're now in 1997. It looks like another --  
25 well, actually, this appears to be a shortage

1 report.

2 Do you see that?

3 A. Yeah. It looks like they were  
4 short methylphenidate hydrochloride  
5 five-milligram five tablets.

6 Q. And are these typically reported to  
7 you by the pharmacy, saying we have a shortage,  
8 you need to come in and take a look?

9 A. Typically, yes. Pharmacists would  
10 call me or a pharmacy supervisor. I mean,  
11 those were the two primary -- I never got a  
12 call from like corporate or loss prevention.  
13 They didn't call me. It would be the  
14 pharmacist or pharmacy supervisor.

15 Q. So for a shortage you needed to fill  
16 out a DEA 106, which is attached to this report?

17 A. Yes. And then I would forward it  
18 or sometimes I would have the pharmacist mail  
19 it to the Board of Pharmacy and I would give a  
20 copy to the board down in Columbus.

21 Q. All right. So that really wasn't an  
22 inspection, it was more of we've got a shortage?

23 A. Yeah. And then I might have looked  
24 at a few things. I didn't really document it  
25 extensively. How long was I there? An hour

1 and a half. Yeah, that's pretty much what I  
2 was in there for.

3 Q. Okay. Go to the next inspection on  
4 page 0666. This is a loss report; is that  
5 right? You were contacted by Pharmacist Swipas  
6 concerning a shortage?

7 A. Yes.

8 Q. So same thing, you filled out a DEA  
9 106?

10 A. Yes.

11 Q. There's a reference that you did an  
12 in-house security review with Bill Dobich, Giant  
13 Eagle security?

14 A. Yeah, I remember Billy. I remember  
15 him. He was a pretty good guy. I don't know  
16 what his title was. He might have been a loss  
17 prevention guy. But I did -- I do recall him.

18 Q. And did he appear to be competent in  
19 terms of what he was doing in terms of loss  
20 prevention efforts at the pharmacies, the Giant  
21 Eagle pharmacies?

22 A. Yes, he must of have because I  
23 remember him.

24 Q. All right. Go to the next  
25 inspection, 0670, store 1419. It looks like you

1 were requesting specific patient information  
2 from the pharmacist and you were documenting it.  
3 Am I reading that correct?

4 A. Okay. Yes. I did request specific  
5 information. Trumbull Mahoning Medical Group,  
6 which was north of them, a physician facility.  
7 I don't recall the specifics of this, though.  
8 This is a long time ago.

9 Q. This is listed as a partial  
10 inspection up above under "Personnel."

11 A. I see it. I don't recall the  
12 specifics on it, though.

13 Q. Go to the next inspection, 0640,  
14 store 1419.

15 A. Yes.

16 Q. This looks like a barricade  
17 inspection.

18 A. You know what? They must have --  
19 what's the date here? '99. They must have  
20 relocated their pharmacy in that specific store  
21 to a different area in the pharmacy and created  
22 a new barricade. I don't remember.

23 Q. But when something like that occurs,  
24 the board agent comes in to approve the new  
25 location; is that right?

1           A.       Yes. Yes, that is correct. They  
2 would call me.

3           Q.       And you approved this -- in this  
4 instance you approved the new location?

5           A.       Yep. I wrote approved on a  
6 barricade inspection, that is correct.

7           Q.       Go to page 0672. It's another  
8 inspection, store 1419.

9           A.       Boy, I was in here a lot. Go  
10 ahead.

11          Q.       Pharmacist Swipas requested a  
12 destruction of controlled substances and looks  
13 like another instance where you were called in  
14 to, I guess, oversee the destruction and fill  
15 out the appropriate forms; is that right?

16          A.       Yeah. I didn't oversee them. I  
17 did them. I would count -- yeah, I was there  
18 what, 11:15 to 12:30, an hour and 15 minutes.  
19 So I would do it all. They would have it  
20 secured in the pharmacy and then I would  
21 document it all on the federal form and then I  
22 would go with the pharmacist to the men's room  
23 and flush it when I was all done.

24          Q.       Let's move forward to the next  
25 inspection, 9956 page. We're now in the year

1     2000.   You're back in store 1405 in Niles, Ohio.  
2     This is a full inspection and Todd Tuttle is the  
3     pharmacist.

4           A.     I know Todd.   I recall.

5           Q.     What do you recall about Pharmacist  
6     Tuttle?

7           A.     Very good pharmacist.

8           Q.     Did he cooperate with you at all  
9     times in your inspections?

10          A.     Yes, he did.

11          Q.     Did he provide leads for diversion  
12     investigations?

13          A.     I would say, yes.   You know, I got  
14     a lot of phone calls.   I would say he never --  
15     he doesn't come into my mind as someone who  
16     caused me concern, we'll put it that way.

17          Q.     Was this a clean inspection, this  
18     full inspection?

19          A.     They weren't putting the full name  
20     of the agent calling in prescriptions, which I  
21     find that, unless it's extensive, something I  
22     just document and bring to their attention.  
23     You know, like one of the nurses or whoever in  
24     a doctor's office would call in a prescription  
25     for whatever on a patient.   You're supposed to

1 mark Sue Smith. If you just mark Smith, then  
2 there's five Smiths in the office. I don't  
3 know who the hell called it in. So that's why  
4 they were required to put first and last name.

5 Q. So you called that to their  
6 attention?

7 A. I did. And I noted number 37. And  
8 then they weren't putting some documentation on  
9 the counseling log that I wanted them to do.  
10 But I didn't issue a pink sheet. It wasn't  
11 that serious.

12 Q. So a clean inspection with some  
13 minor requests for corrections?

14 A. Attention to detail, yes.

15 Q. Okay. The next inspection is on  
16 page 9962. This is now July of '02, store 1405,  
17 in Niles, where Mr. Tuttle, pharmacist, full  
18 inspection. Is this a clean inspection, sir?

19 A. Yes, it is. Wait a minute. It  
20 looks very clean to me.

21 Q. The reference on page 1 to pharmacy  
22 profile records, and on page 3 to patient  
23 profiles and perpetual inventories, these are  
24 observations made by you in your inspection that  
25 you felt were worthy of memorializing?

1           A.       Yes. To call to my attention if I  
2 needed to in the future for whatever. You  
3 know, sometimes I went into more details on  
4 things. You could see I documented a pretty  
5 good inspection. I would, you know -- every  
6 pharmacy was different. You know, I would  
7 document not exactly the same thing all the  
8 time. I tried to be thorough, but everyone is  
9 a little different, just like our kids.

10           Q.       Do you normally do a barricade  
11 inspection when you are out doing your on-site  
12 inspections?

13           A.       Not necessarily normally. This  
14 one, new pharmacy moved from within the same  
15 building I noted on the first page. So they  
16 had moved from one spot to another spot. I  
17 remember this store. It's right there in  
18 downtown Niles.

19           Q.       In your inspections, Agent Pavlich,  
20 did you have cause to look at dispensing records  
21 and drug utilization review records from time to  
22 time?

23           A.       Yes.

24           Q.       Were you seeking to enforce those  
25 manner of prescribing regulations that we went

1 over a little while ago?

2 A. Sure.

3 Q. Go to page 0676, another inspection,  
4 store 1419.

5 A. Swipas, and there's his wife  
6 pharmacist, Kimberly.

7 Q. And was this a clean inspection?

8 A. It looked like it had a destruction  
9 and it did. Yes, I mean this was an inspection  
10 but not as thorough as the last one I just did.  
11 This was more I spent a heck of a long time in  
12 there destroying and counting prescription  
13 drugs for destruction.

14 Q. Go to the next inspection on page  
15 9844.

16 A. Okay.

17 Q. This is store 4056 in Warren, Ohio,  
18 looks like Brad Edwin Daugherty, pharmacist.

19 Do you see that?

20 A. Yeah. I'm trying to place him. I  
21 remember Cathy Rozzi but I can't place  
22 Daugherty.

23 Q. Here you pink sheet several items  
24 that you wanted follow-up on, and on page 9853  
25 there appears to be a response from the Giant

1 Eagle pharmacist, 9853 and 9855 and 57. So this  
2 was an inspection of -- a full inspection where  
3 you wanted follow-up, correct?

4 A. Yep, I did.

5 Q. And did you get the follow-up that  
6 you wanted in writing from Pharmacist Daugherty?

7 A. Yes, I did.

8 Q. And were you satisfied with his  
9 response? I guess there was an issue involving  
10 a copy of a prescription that was found in the  
11 copier or something. Do you recall this  
12 incident?

13 A. Yes, I do, as a matter of fact.

14 Q. And did the Giant Eagle pharmacist  
15 provide you the information you needed in order  
16 to resolve the matter?

17 A. Yes. He provided me with a written  
18 answer. As a matter of fact, he even  
19 apologized. Yep, he did. I remember that  
20 incident.

21 Q. You also had some follow-up requests  
22 for the labeling on the third page of this  
23 report. You wanted more information concerning  
24 the computerized labeling?

25 A. I don't remember this part.

1           Q.       He seems to provide a response on  
2       page 9855.

3           A.       He was really thorough, articulate  
4       in his responses. I'm looking at them. I  
5       don't remember these other little details, but  
6       I do remember that prescription that was in the  
7       copier, and he called the doctor or something,  
8       if I remember correctly, and the doctor said  
9       just destroy it, and he did, not to my liking.

10          Q.       That's something he shouldn't have  
11       done?

12          A.       No.

13          Q.       You're supposed to keep a record of  
14       it?

15          A.       Yeah. That's a drug document. Not  
16       that he specifically dispensed anything off of  
17       it and should have kept a record of it, but  
18       should not have destroyed a drug document  
19       however it was obtained by him.

20          Q.       All right. And you called him on it  
21       and he sent a letter apologizing and explaining  
22       the circumstances?

23          A.       Right. He did, and, you know, I  
24       don't remember any problems with him.

25          Q.       And so those matters in that report

1       were resolved to your satisfaction?

2               A.       Yes.   Not only my satisfaction but  
3       the satisfaction of -- I believe Tim Benedict  
4       or Bob Cole in Columbus reviewed any pink sheet  
5       inspections that were issued and they  
6       maintained the file, and then when the answer  
7       came in, they would compare it to the  
8       inspection sheet, specifically what was noted  
9       to what was answered, and if there was a  
10      problem with the answer, then I'd get a call.

11              Q.       We have a few more inspections.

12                      Beginning on page 9822 is an  
13      inspection of Giant Eagle store number 4002 in  
14      Youngstown. My only question related to this  
15      inspection is was it a clean inspection?

16              A.       Yeah.   Todd Tuttle was there.

17              Q.       Marcie Swanson is the responsible  
18      person. Do you remember her?

19              A.       Yeah, I remember Marcie.

20              Q.       What did you think of Marcie?

21              A.       I think she was a fine pharmacist.  
22      I don't recall any issues with her that I  
23      recall. I am getting old so bear with me.

24              Q.       Go forward to page 9974. It's an  
25      inspection of Giant Eagle store 1405 in Niles,

1 Ohio.

2 A. 9974. Is that after 9822?

3 Q. Yes. Yes. They're not in  
4 necessarily --

5 A. Oh, okay.

6 Q. -- numerical order so you have to  
7 flip through.

8 A. I got it, okay.

9 Q. This is an inspection of 1405, store  
10 1405, on 2-12 of '08. Was this a clean  
11 inspection, Agent Pavlich?

12 A. It looks like it on its face. I  
13 would say it was. I remember Stephanie.

14 Q. Stephanie was a pharmacist at this  
15 store?

16 A. She was a responsible pharmacist at  
17 that store.

18 Q. And did you find her to be a  
19 cooperative and professional pharmacist?

20 A. I did.

21 Q. The last couple of inspections that  
22 we have -- go to page 9830. This is an  
23 inspection of Giant Eagle store 4002 on 2-1 of  
24 2010. There are several listed pharmacists.  
25 Ken Hiywa, H-I-Y-W-A --

1 A. Yeah.

2 Q. -- do you remember him?

3 A. No, I do not. I do not remember  
4 the second one. I know the third one. He was  
5 a hospital pharmacist sometime during my  
6 career. Mike Rubesich, I know him. He was an  
7 excellent pharmacist. Tina Wheeler, I can't  
8 place her. And Todd Tuttle, he was a good  
9 pharmacist, too.

10 Q. Okay. The second page -- well, this  
11 is a clean inspection, correct?

12 A. Yeah.

13 Q. The second page of this inspection  
14 references daily log reports filed and signed by  
15 the pharmacist. Is that a form of internal  
16 control that you found to be good internal  
17 control?

18 A. This is 9832?

19 Q. Yes.

20 A. And it's the second page?

21 Q. Yes.

22 A. What are you referring to?

23 Q. In the middle it says, "All daily  
24 log reports are filed and RPh signed."

25 A. At the end of the day they print a

1 printout and the pharmacist is required to sign  
2 it.

3 Q. Is that a good internal control in  
4 your experience?

5 A. Well, it was required by the board,  
6 but as far as if the pharmacy dispensed 500  
7 prescriptions, at the end of the day they would  
8 print a log like that with the 500 dispensings  
9 in it, and to say that the pharmacist  
10 specifically went through each and every  
11 dispensing, that never happened. They would  
12 just sign off on it and say this is what came  
13 out of -- per se, this is what came out of our  
14 computer dispensing system and I'm verifying  
15 that fact.

16 Q. Okay. But my question is, what you  
17 said, that's something that the board required.  
18 And did the board require it because it was a  
19 form of controlling --

20 A. It was a form of looking back on  
21 accountability versus hard copy.

22 Q. Okay. At the bottom of page 9832  
23 there's a reference to "new seven camera video  
24 system recently installed in the store." Is  
25 that a form of internal controls that you found

1 to be good -- something good to have in the  
2 pharmacies?

3 A. Yes.

4 Q. Video cameras?

5 A. Yes.

6 Q. Did it -- was it because the cameras  
7 were helpful in detecting theft and diversion?

8 A. Yes.

9 Q. Did you find that to be so in  
10 actuality in your investigations, that you were  
11 able to pull video cameras and inspect them to  
12 see what was going on?

13 A. Yes, I did, or put my own in or the  
14 board's cameras in. But yes, very helpful.

15 Q. Okay. We have two more inspections;  
16 actually, three more. I'll try to be summary on  
17 these.

18 Page 9237, an inspection on 3-8 of  
19 2011 of Giant Eagle store 4051. Is this a  
20 clean inspection of that Giant Eagle store?

21 A. Yes. Mike Madgar, very good  
22 pharmacist.

23 Q. Do you recognize the other  
24 pharmacists, Tim Lewis or Heather Hammer?

25 A. No, I don't recognize them but I

1 recognize Mike.

2 Q. Was Mike Madgar a cooperative  
3 pharmacist?

4 A. Yes.

5 Q. Did he behave professionally in your  
6 experience and provide you with investigative  
7 leads?

8 A. Very good.

9 Q. The second to last inspection report  
10 is on page 0766.

11 A. Okay.

12 Q. Now, there's two pink sheet items,  
13 29 and 12, and there's a Giant Eagle response on  
14 page 0778. Now, you wanted some documentation  
15 follow-up from the Giant Eagle pharmacy at this  
16 time, for example, for an inventory. You  
17 couldn't find some inventory in the records?

18 A. I see it. I couldn't find it. I  
19 don't recall this particular -- either one of  
20 those pharmacists. I don't remember them.

21 Q. Barbara McAnany, M-c-A-N-A-N-Y, or  
22 Brenton Cornwell?

23 A. I don't recall. I don't remember  
24 either one of them.

25 Q. But did you -- were you satisfied

1 with the Giant Eagle pharmacists' follow-up?

2 A. Apparently. Replied within 20  
3 days. This must be it right here.

4 Q. Page 0778 is the reply?

5 A. Yes, it is.

6 Q. Were you satisfied with that reply  
7 and did it resolve the items that you wanted  
8 followed up on?

9 A. Must have been.

10 Q. And then the last inspection, Agent  
11 Pavlich, is on page 0684 dated 12-1 of '11.  
12 This is store 1419 in Warren, Ohio. Is this a  
13 clean inspection?

14 A. Yes, it was clean, and I remember  
15 Linda Rhodes.

16 Q. And Linda Rhodes, R-H-O-D-E-S?

17 A. Right. Good pharmacist.

18 Q. Was she cooperative with you and did  
19 she provide investigative leads to you?

20 A. She was cooperative with me during  
21 this inspection. Like I say, I don't recall  
22 each pharmacist that ever called me, but I  
23 recall her, so, and I recall nothing bad about  
24 her.

25 Q. I have a few follow-up questions,

1 Agent Pavlich.

2 After going through all of the  
3 requirements and going through all of your  
4 inspection reports, is it a fair statement that  
5 Giant Eagle pharmacies met the requirements for  
6 its Ohio licenses for all of its stores at all  
7 times and that no license was ever suspended or  
8 revoked?

9 A. Well, I can't answer that last part  
10 because I don't recall, but Giant Eagle  
11 pharmacy never caused me any grief. If I  
12 requested something, I talked to the pharmacist  
13 and they were always cooperative that I recall,  
14 and I think their supervisor at that time was  
15 Rick Gray and he was always very cooperative.  
16 I don't recall having any major problems with  
17 him, not that I didn't. I'm just not recalling  
18 it.

19 Q. But do you recall -- I think you  
20 inspected these pharmacies in Trumbull County 21  
21 times and part of these inspections include  
22 checking licenses. Do you recall any Giant  
23 Eagle pharmacy license being suspended or  
24 revoked for a violation of Ohio law?

25 A. I would say I don't.

1           Q.     Is it a fair statement that as far  
2 as you know, based upon your inspections, that  
3 Giant Eagle pharmacies met the security  
4 requirements imposed by Ohio law?

5           A.     Yes.

6           Q.     In fact, in some ways did the Giant  
7 Eagle pharmacies have better controls than those  
8 required by the Ohio security requirement?

9           A.     They met the standard.

10          Q.     In your multiple visits to Giant  
11 Eagle stores, did you ever observe in any way  
12 that they were not adequately staffed with  
13 professional pharmacists and pharmacy  
14 technicians? Did you ever see anything that  
15 caused you concern about the staffing levels?

16          A.     Well, put it this way, sometimes I  
17 saw pharmacy levels of dispensing that they  
18 could have sure used another pharmacist in  
19 there at times than be overworked and burden  
20 pharmacists or couple of pharmacists that were  
21 in there. But that wasn't my call. I'm just  
22 giving my opinion.

23          Q.     Is that something, if you observed  
24 it, you would have put it in your inspection  
25 reports?

1           A.       No, not necessarily. That was an  
2       opinion. Didn't say anything ever in a code  
3       that I know of that they had to have a certain  
4       number of pharmacists for a certain volume of  
5       prescriptions. My sister-in-law is a  
6       pharmacist also. And I would walk in stores  
7       and see hundreds of prescriptions being  
8       dispensed in a day and they would have one  
9       pharmacist working in the store. To me, in my  
10      opinion, it was extra pharmacists needed on  
11      that staff, but that was my opinion.

12          Q.       Are you speaking specifically of  
13      some pharmacy or a Giant Eagle pharmacy? I'm  
14      trying to make sure I understand.

15          A.       I'm not -- I'm speaking in  
16      generality because I can't recall a specific  
17      location as to, oh, wow, they did a thousand  
18      scripts and they had one pharmacist working  
19      during an eight-hour shift. I'm just telling  
20      you in general what I would see at times, and I  
21      would go, man, I feel sorry for this pharmacist  
22      working in here doing all of this, all of this  
23      responsibility and everything with five, four,  
24      three techs running around. And they're  
25      responsible for all of this. They don't get

1     paid enough to do all of that in my opinion.

2             Q.     I just want to make sure I  
3     understand that these are some unknown  
4     pharmacies in your general experience?

5             A.     All pharmacies in general. All  
6     pharmacies that I would walk in, I would see  
7     high volumes of scripts, whether it was a chain  
8     or even an independent, and I would see one  
9     pharmacist trying to maintain all of this, do  
10    all these records and deal with me. I know it  
11    was in my head many a times saying, man, I feel  
12    sorry for this pharmacist.

13            Q.     But there's nothing in the code or  
14    the regulations --

15            A.     No.

16            Q.     -- that say --

17            A.     That's why it was not noted in my  
18    inspection report. They filled a thousand  
19    prescriptions on January 2nd and there was only  
20    one pharmacist in here filling them all. There  
21    was nothing noted because there was nothing in  
22    the code that I can recall, administrative  
23    or -- well, more administrative than anything,  
24    specific to prescriptions and how many  
25    pharmacists. You asked me and I'm telling you

1     what I think -- what I thought.

2             Q.     Agent Pavlich, in your experience in  
3     inspecting Giant Eagle pharmacies, is it a fair  
4     statement that Giant Eagle pharmacies complied  
5     with the manner of processing prescription  
6     requirements, including the drug utilization  
7     reviews that we went over earlier today?

8             A.     Yes.

9             Q.     Did you ever see any evidence that  
10    Giant Eagle pharmacists were filling  
11    illegitimate prescriptions?

12            A.     Oh, I'm sure there was, but I just  
13    don't recall. I mean, that was 25 years of  
14    work. I just don't recall off the top of my  
15    head. You'll have to be more specific.

16            Q.     Were Giant Eagle pharmacies ever the  
17    targets of a criminal investigation as far as  
18    you know?

19            A.     Giant Eagle pharmacies?

20            Q.     Right.

21            A.     So you're asking me whether  
22    corporate was involved, and I would say no,  
23    involving me.

24            Q.     Is it your view that, based upon  
25    your inspections of Giant Eagle pharmacies, that

1 Giant Eagle pharmacies were operating lawfully  
2 at all times?

3 A. If they weren't, I would have taken  
4 a case number or I would have documented it. I  
5 don't recall anything specific.

6 Q. Did you ever see any evidence that  
7 Giant Eagle or its pharmacists were knowingly  
8 filling prescriptions that were not legitimate?

9 A. I mean, there could have been. I  
10 just don't -- you're going to have to bring me  
11 a specific case number or something. I'm not  
12 going to say every single pharmacy I walked in  
13 I never found a false prescription, I never  
14 found a problem. I couldn't answer that that  
15 way.

16 Q. Would you have to look at your  
17 inspection reports in order to find that?

18 A. Yeah. I would have to go through  
19 25 years of inspection reports and  
20 investigative reports to find out if I had a  
21 pharmacist in there that caused me grief.  
22 Right off the top of my head I'm not thinking  
23 of one.

24 Q. All right. But sitting here today,  
25 can you recall ever an incident where a Giant

1 Eagle pharmacist knowingly filled a prescription  
2 that was not legitimate?

3 A. I can't recall one.

4 Q. Did Giant Eagle and its pharmacists  
5 actively assist you and the board with  
6 anti-diversion efforts?

7 A. They did what I requested of them.

8 Q. Do you hold similar conclusions for  
9 the other pharmacy Defendants, CVS, Rite-Aid  
10 Walgreens and Rite-Aid? Were they generally  
11 cooperative with you in your investigations?

12 A. Well, since I'm under oath, I would  
13 say I had no problems with Giant Eagle, no  
14 problems with CVS, no problems with Walgreens,  
15 no problems with Walmart. I had some issues  
16 with Rite-Aid.

17 Q. Okay. Is that in connection with  
18 the Overholt Pharmacy/Dr. Franklin matter?

19 A. No. That involved -- well, for  
20 one, it involved one of their supervisors,  
21 who's now deceased. He used to give me a  
22 little bit of trouble when I would ask for  
23 things and sort of, I guess the term would be,  
24 drag his feet, and he was the one that I  
25 confronted the one time. And I was working a

1 doctor case in Boardman, Ohio, and he said, "He  
2 wrote it. We're just supposed to fill it."  
3 And that's when I told him about corresponding  
4 responsibility and manner of issuance, and I  
5 said, "I'm going to hold you responsible then  
6 for everything I pull out of here and you'll  
7 get criminally charged." And I didn't have too  
8 much trouble with him after that. That was  
9 one.

10 And then there was another one,  
11 Rite-Aid pharmacist supervisor, that caused me  
12 grief up in the Trumbull County area when I  
13 would do things and started dragging her feet,  
14 not as quick as other, you know, chain  
15 pharmacist supervisors. I don't remember her  
16 name. It was Patty -- Patty something -- Patty  
17 something or another. Let's see. Wait a  
18 minute.

19 Q. What are you looking at?

20 A. One of my old directories, one of  
21 my address books that I still have. Patricia  
22 Mendenhall. I had a little bit of issues with  
23 her always trying to get -- trying to always  
24 get what I needed done, whether it was a record  
25 or something, and it just wasn't as easy, you

1 know. Like I would call Rick Gray from Giant  
2 Eagle and get it done right away. It was  
3 always a little bit of trouble. I don't know  
4 if it was her or if it was the other guy or if  
5 it was corporate, but I always had a little bit  
6 of trouble. Not all the time, but I'm under  
7 oath and I'm telling you what I'm telling you.

8 Q. But with -- I appreciate those  
9 detailed descriptions of the two Rite-Aid  
10 supervisors. Did you believe that -- we've  
11 already covered Giant Eagle, but the other  
12 pharmacy Defendants, did you believe that they  
13 were operating lawfully at all times while you  
14 were an agent?

15 A. Yes. I believed all of the chains  
16 were operating responsibly. I just brought up  
17 two individuals that made my life a little  
18 harder sometimes.

19 Q. And did these same chain pharmacies  
20 actively assist you and law enforcement with  
21 anti-diversion efforts?

22 A. They would provide me whatever I  
23 requested.

24 Q. Now, Agent Pavlich, you mentioned a  
25 couple of times this Dr. Franklin/Overholt

1 Pharmacy. Can you tell us how that  
2 investigation began?

3 (Technical difficulties.)

4 THE COURT REPORTER: I'm sorry.  
5 This is the court reporter. There was some  
6 rustling of papers and after your first  
7 statement I couldn't hear. If you could repeat  
8 that, please.

9 MR. BARNES: Sure. That was my  
10 fault.

11 Q. Do you recall the  
12 Dr. Franklin/Overholt Pharmacy matter, Agent  
13 Pavlich?

14 A. Yes, I recall it.

15 Q. Was that one of the most significant  
16 prosecutions, investigations and prosecutions  
17 you were involved with in your career?

18 A. Most significant? Well, I had a  
19 lot of them. That was -- at the same time I  
20 was investigating that, I was doing a million  
21 and a quarter doses dispensed by an independent  
22 pharmacy in Mahoning County when I got a call  
23 from Joanne Predina, who was a specialist with  
24 the Board of Pharmacy. She got a call, if I  
25 recall, from a doctor or someone working in the

1 jail in Lake County, and they had a docket in  
2 there. And I remember his name, Joey  
3 Harrington. And she told me that he was  
4 getting dispensed to him an enormous amount of  
5 opiates. And I remember 900 8-milligram  
6 Dilaudid tablets was one of them, and then  
7 there was oxycodone, Methadone. He was getting  
8 all kind of stuff. And he was showing no signs  
9 in the jail of any withdrawal or anything if he  
10 was consuming all this. And she said -- I  
11 said, "Well, why you calling me? It's in Lake  
12 County."

13 And she said, "Well, apparently he  
14 got them all dispensed out of Overholt  
15 Pharmacy," which I didn't know about this  
16 dispensing going on.

17 And I said, "Really?"

18 And that was the start, I was going  
19 to do Overholt Pharmacy. And the agent  
20 responsible -- the doctor's office, Dr. Peter  
21 Franklin, was in Geauga County. And that was  
22 Frank Bodi's responsibility. And apparently  
23 Frank Bodi knew about this doctor and  
24 apparently Frank Bodi had an open case on him,  
25 but did nothing, did nothing, and -- with his

1 case, and he retired shortly thereafter. But I  
2 opened the case on Overholt Pharmacy. And then  
3 my supervisor, field supervisor, Jim Reye,  
4 called me and said, "Hey, you're really good at  
5 doctor cases. I want you to do Overholt  
6 Pharmacy and Dr. Peter Franklin, though it's  
7 not in your county."

8 And I told him, "Look. I'm doing a  
9 million and a quarter doses of internet  
10 prescriptions out of this store and all these  
11 other things I got to do. I can't do this."

12 And he said, "Yeah, you can do it."

13 And I got it and I worked it, and I  
14 -- well, I convicted three pharmacists from  
15 Overholt Pharmacy; the owner, Ken Overholt;  
16 Andrea Luchette, staff pharmacist; and Robert  
17 Graves, another staff pharmacist. He sold his  
18 store because he was going to lose his license  
19 for the store. And I was going to indict Peter  
20 Franklin, the doctor, and his wife, who was the  
21 office manager in his office, stabbed him in  
22 the chest with a steak knife and killed him,  
23 thinking it was going to end the investigation.  
24 Well, she's in state prison now for murder.  
25 And that, in a nutshell, was a very difficult

1 case to put together.

2 Q. How many years did it take you?

3 A. I can't remember the case number on  
4 that. I think it was an '07 case number, and  
5 it was toward the end of '07, if I remember  
6 correctly, because I was doing Evankovich, the  
7 internet case, and that was '06. And I  
8 finished that case. They finally pled. If I  
9 remember, December of 2011 or January of 2012 I  
10 was done, because Evankovich was done then,  
11 too. But -- so it took three plus years.

12 Q. I want to back up for a minute.

13 A. Four years.

14 Q. Four years?

15 A. Yeah, probably. I'm thinking it  
16 was an '07 case, and it was the end of '07, if  
17 I remember. Yeah, it would be about four  
18 years.

19 Q. You mentioned the Evankovich case.  
20 Can you spell that name?

21 A. His name was Gary Evankovich,  
22 E-V-A-N-K-O-V-I-C-H. He owned -- he owned two  
23 pharmacies, but the other pharmacy wasn't  
24 involved because it was a different pharmacist.  
25 The store that he was doing his activity out of

1     that I stumbled upon was Mill, M-I-L-L, Creek  
2     Pharmacy. It was located in Youngstown, Ohio,  
3     Mahoning County.

4             Q.     And that involved the internet, an  
5     internet pharmacy?

6             A.     Yeah. It involved him dispensing,  
7     with a totally separate computer system in his  
8     pharmacy, a magnitude, as I remember, a million  
9     and a quarter doses of drugs out of his  
10    pharmacy.

11            Q.     What kind of drugs?

12            A.     All non-controlled or I would have  
13    taken it federal because I met with the FBI on  
14    this, and because there was no controlled  
15    substances involved, they're like, oh, no  
16    controlled drugs, you know -- I go a million  
17    and a quarter doses and you don't want to do  
18    this. So I ended up taking it through Mahoning  
19    County and administratively took his license.

20            Q.     I see. What were the main drugs  
21    involved in that investigation and prosecution?

22            A.     Dangerous drugs, which are  
23    prescription drugs but not controlled. There  
24    was a lot. But primarily it was Fioricet,  
25    which was a non-controlled drug, it was a pain

1 drug; a lot of sexually enhancing drugs, like  
2 Viagra, Cialis, a lot, those type of drugs. I  
3 can't remember all of them specifically unless  
4 I had the report in front of me. And, I mean,  
5 this report, like the Overholt/Dr. Franklin  
6 case, I wrote thousands of pages, thousands. I  
7 wrote all the search warrants for all those  
8 cases, which was voluminous in itself, the  
9 search warrants. They were massive. And those  
10 are two independents. They had nothing to do  
11 with chains.

12 Q. These were Gary Evankovich  
13 pharmacies, two independent pharmacies?

14 A. No. Gary Evankovich had two  
15 independent pharmacies, but he was doing it all  
16 out of one, unbeknown to his partner at the  
17 other one. He owned -- they owned together two  
18 pharmacies. It was Mill Creek Pharmacy that  
19 was that problem. Then there was a different  
20 pharmacy.

21 Q. Was there a period of time when  
22 internet pharmacies were a problem in terms of  
23 distributing -- I'm sorry, dispensing controlled  
24 substances, including opioids?

25 A. Yes.

1           Q.       Do you recall the approximate time  
2       period when they were a problem?

3           A.       They were a problem when I was  
4       investigating that pharmacy. That was in '06.  
5       I believe Raul Romea, who was a specialist with  
6       the Board of Pharmacy, also had a case going on  
7       with internet dispensing.

8           Q.       How significant of a problem was it?

9           A.       Oh, it was -- well, a million and a  
10      quarter doses, that's pretty significant in a  
11      range of -- I believe I covered only nine  
12      months of dispensing. I think it was nine  
13      months that I looked at.

14                   See, what happened was this  
15      pharmacist, once I went in there and saw what  
16      was going on -- I went into his pharmacy and I  
17      seen this huge stack of -- it was Viagra and  
18      Cialis and all that stuff, and I'm like what  
19      the hell. And I looked at his files and I  
20      couldn't find legitimacy for this, and -- you  
21      know, I'm looking in his computer and I  
22      couldn't find anything. Here he had a computer  
23      hidden under the thing that he would slide out  
24      and do the internet dispensing, and there was  
25      no legitimacy to it because a patient must have

1 a face-to-face with a physician in order to be  
2 dispensed a prescription legitimately in the  
3 state of Ohio.

4 So I said, "Oh, Gary," and I left.  
5 And I went and got a specialist, Bill Winsley  
6 at the time, who eventually became executive  
7 director, and brought him in with me. And then  
8 I find out he purged the computer on me. So  
9 now it really got tough because I had no  
10 printout. I had to do it with manual  
11 prescriptions that he had stored off-site in a  
12 different facility. Talk about diversion.  
13 That was diversion.

14 Q. Okay. But my question relates to  
15 internet pharmacies dispensing controlled  
16 substances, including opioids.

17 A. I didn't have a case with that.

18 Q. You didn't have a case with that?

19 A. Internet prescription dispensing.  
20 The only internet prescriptions I had, which I  
21 brought to your attention, was Gary  
22 Evankovich/Mill Creek Pharmacy. I don't recall  
23 if -- I think they did have, but I don't recall  
24 specifics.

25 Q. Okay. Getting back to the

1 Dr. Franklin thing, it sounds like the source  
2 you were describing was an inmate by the name of  
3 Joey Harrington at the Lake County Jail, that  
4 was how the investigation began, and then you  
5 ended up with both cases, Dr. Franklin and the  
6 Overholt Pharmacy?

7 A. Yeah. I remember -- I mean, there  
8 was a number of people involved. I started out  
9 with 50 profiles, broke it down to 20,  
10 targeting 20 that were the worst of the worst.  
11 But Joey Harrington was the king of the whole  
12 thing, number one most drugs I ever seen  
13 prescribed for one person in my life, career.  
14 In my 35-year career I have never seen drugs  
15 prescribed like that for anybody.

16 Q. What kind of drugs were being  
17 prescribed for him?

18 A. Dilaudid, eight-milligram, 900  
19 tablets in a 30-day supply. So that's 30  
20 tablets of 8-milligram Dilaudid in a day. That  
21 alone would kill a herd of elephants.  
22 Methadone, another opiate; diazepam, if I  
23 believe correctly; oxycodone, probably two  
24 different types. It was unbelievable. When I  
25 got that phone call, I was like -- I mean, I'm

1     talking to a pharmacist, Joanne Predina, who  
2     was the best of the best as a specialist, and  
3     I'm saying you got to be reading this wrong,  
4     this can't be right. And she was right. That  
5     was the profile.

6             Q.     Would you look at Exhibit 18 in the  
7     binder, please?

8             A.     My name is in there I see.

9             Q.     I asked Agent Edwards about this,  
10    and the reason I'm showing you this is, does  
11    this refresh your recollection as to the  
12    approximate time in which the Franklin --  
13    Dr. Franklin/Overholt investigation began, in or  
14    about June of 2008?

15            A.     Well, I said I took a case out and  
16    I was pretty much on line when I said late  
17    2007. So, yeah, this would be right there in  
18    the time frame.

19            Q.     And once you began your  
20    investigation, did you work with Agent Edwards  
21    in this investigation?

22            A.     A little bit.

23            Q.     But you were the agent in charge  
24    and -- is that correct?

25            A.     I was the agent in charge of

1 Dr. Peter Franklin and Overholt Pharmacy. I  
2 was the one that documented everything and  
3 wrote all the search warrants.

4 Q. Speaking of search warrants, would  
5 you look at Exhibit 19, please?

6 A. Search warrants, this is mine. I  
7 wrote this. And I know it was big. Yeah, it  
8 is big. Yes, this is it. And I had my name as  
9 the affiant. Sergeant Jeff Orr, he was in  
10 charge of the Trumbull County Drug Task Force.  
11 And Trey Edwards was on here, too. But I  
12 was -- I was the guy that wrote this thing.

13 Q. It's a very detailed search warrant.  
14 If you go to page 5736 --

15 A. I was a very detailed guy.

16 Q. -- Synopsis, it says, "On March 19th  
17 of 2008 this agent was requested by OSBP  
18 regional agent supervisor Jim Reye, R-E-Y-E, to  
19 combine the investigation of Overholt's Pharmacy  
20 with the Dr. Peter Franklin investigation, which  
21 was previously assigned to and not investigated  
22 by retiring OSBP Agent Frank Bodi."

23 Was there a problem or an issue  
24 about why Agent Bodi did not investigate  
25 Dr. Franklin?

1           A.       Not everybody is capable of doing  
2       an extensive massive doctor investigation. I  
3       just happened to be really good at it. I had  
4       already indicted and convicted probably 50  
5       doctors, including the Mahoning County Coroner.  
6       Frank just wasn't capable of putting all these  
7       things together. And my supervisor in Columbus  
8       knew it and he started pressuring him and Frank  
9       decided to retire. And I had already received  
10      the call -- this is -- what date was this,  
11      March 19, 2008, when Jim Reye called me and  
12      said to combine the two. I had already, I  
13      believe, taken out a case number of '07 late,  
14      when Joanne had called me and said Joey  
15      Harrington. And I intended to go into Overholt  
16      Pharmacy and do my thing if I had not already.  
17      So Frank just wasn't good at this.

18           Q.       So you took it over?

19           A.       Yeah, unwillingly, but I got it.

20           Q.       And that was unusual to combine  
21      investigations in this manner, combining a  
22      doctor investigation with a pharmacy  
23      investigation?

24           A.       Yeah, it was unusual, but I  
25      combined them because my supervisor told me to

1 do both of them together, and that's why I did  
2 it that way. I would have broken it off if  
3 there was other multiple locations, multiple  
4 pharmacies that were going to happen, and then  
5 I would have broken it off with a case number  
6 for a Giant Eagle, a CVS, a Walgreens, so on  
7 and so forth, but because it was just one  
8 independent based on what my investigation  
9 started to show, I kept it like it is.

10 Q. How massive was Dr. Franklin's  
11 prescribing of controlled substances?

12 A. The worst of the worst. The worst  
13 of the worst that I have investigated, and I  
14 did 80, 90 doctors, the worst.

15 Q. Can you give us a sense of the  
16 numbers, though? Are we talking a handful of  
17 prescriptions, hundreds of prescriptions,  
18 thousands of prescriptions?

19 A. Thousands. If I'm guessing right,  
20 if I can remember, you know -- I'm under oath  
21 and I'm just trying to recall -- it's been a  
22 few years -- 10,000 prescriptions in a window  
23 of what I put together, 10,000. I mean, you're  
24 looking at one patient, 900 Dilaudid  
25 8-milligram tablets. There is no human in this

1 world that can consume 900 tablets in 30 days  
2 of 8 milligram, not counting Methadone, all the  
3 other drugs he was getting, oxycodone. There's  
4 no -- I mean, as soon as I heard this, I  
5 thought, oh, my God, who the hell wrote this  
6 and who the hell dispensed this.

7 Q. And in your search warrant on the  
8 next paragraph you state that the review  
9 confirmed that Dr. Franklin authorized 15,298  
10 controlled substance prescriptions during the  
11 period 4-10 of '06 through 6-4 of '08, so a  
12 little more than two years, these over 15,000  
13 controlled substance prescriptions. Was that  
14 the time window that you had narrowed your  
15 investigation down to?

16 A. Yes. I couldn't remember, you  
17 know, off the top of my head, but if I put it  
18 in this affidavit, that's what it was.

19 Q. In your experience, is that a  
20 massive amount of controlled substance  
21 prescriptions?

22 A. It is in my opinion, from one  
23 doctor, it is in my opinion, and this doesn't  
24 count patients -- this is only at Overholt  
25 Pharmacy. This doesn't count -- other

1 pharmacies were filling scripts, but more in  
2 the realm of what I considered to be  
3 legitimate. I mean, not every patient got 900  
4 Dilaudid 8-milligram. I mean, patients would  
5 get, you know, 60 tablets, which would be BID,  
6 twice a day. And your chains probably filled  
7 some of them, I know they filled some of them,  
8 but nothing I found was in a criminal element  
9 to the extent of this store. If I remember  
10 correctly, this store filled -- 50 or 60  
11 percent of all the prescriptions I found coming  
12 out of that office were filled at Overholt's  
13 Pharmacy. As a matter of fact, I remember he  
14 had written on the prescriptions after whenever  
15 "Fill only at Overholt Pharmacy," because there  
16 was no questions asked. That's how bad it was.

17 Q. I see.

18 A. And they were driving from Lake  
19 County, Ashtabula, everywhere, to Trumbull  
20 County to fill these things. That's how bad it  
21 was.

22 Q. And you said the doctor's office was  
23 in Geauga County?

24 A. Geauga.

25 Q. Geauga?

1           A.       Yes.   That's -- that's just above  
2   Trumbull County, up there.

3           Q.       I see.   And Dr. Franklin was  
4   specifically directing his patients to Overholt?

5           A.       Right.   He was -- I mean, there was  
6   a Giant Eagle -- wait a minute.   Let me think  
7   about this.   I'm pretty sure there was a Giant  
8   Eagle.   You came down his driveway to the main  
9   street there and there was a Giant Eagle right  
10   there.   It was a Rite-Aid, and there was a  
11   Giant Eagle up the street, or it was a  
12   Rite-Aid.   And they weren't really filling  
13   them.   I mean, they had a couple in there, a  
14   few, but they caught on right away.   But I  
15   wasn't going to get the call because that  
16   wasn't my county.   Frank Bodi got the call.  
17   Hey, we see some suspicious prescriptions.   And  
18   obviously, you know, it ended up -- I ended up  
19   getting all this.

20          Q.       Your search warrant in the next  
21   paragraph references many pharmacists  
22   questioning Dr. Franklin's prescriptions.

23                    Do you see that?

24          A.       No.

25          Q.       On the bottom of page 5736.

1 A. 5736.

2 Q. This is in your search warrant.

3 A. Okay.

4 Q. It says, "This agent investigated  
5 various sources who reported that Dr. Franklin's  
6 patients were selling their medications." Down  
7 at the bottom, "Some patients had criminal  
8 histories involving deception to obtain  
9 prescription medications, and many pharmacists,  
10 including a pain management physician,  
11 questioned the volume of doses and combinations  
12 of controlled drugs" --

13 A. Right.

14 Q. So did you actually go back to  
15 pharmacists in the area and --

16 A. I not only talked to pharmacists,  
17 but I talked to sources. Lake County obviously  
18 had information on this, where Trey Edwards  
19 was. So I spoke to people or sources that they  
20 had, and, as a matter of fact, Trey Edwards  
21 provided me with a physician who was a pain  
22 management doctor. The name was Piszal. It's  
23 right here in my document. And he was  
24 flabbergasted by what he saw. I mean, he was  
25 like taken back and said, "Wow."

1           Q.     In talking to other pharmacists in  
2     the area, were you able to determine that  
3     pharmacists had complained about Dr. Franklin  
4     for some time?

5           A.     Yes.

6           Q.     And were some of those pharmacists  
7     from the pharmacy Defendants?

8           A.     Yes.

9           Q.     Do you know whether or not the  
10    pharmacists were told to stop dispensing for  
11    Dr. Franklin at any point in time in the  
12    investigation?

13          A.     Not by me. They were never told by  
14    me to stop dispensing.

15          Q.     Why not?

16          A.     I don't know about anybody else  
17    telling them to, whether it was Edwards or Bodi  
18    or the Board of Pharmacy. Not by me.

19          Q.     Why wouldn't you tell a pharmacist  
20    to stop dispensing for Dr. Franklin if there  
21    was -- if he was under investigation?

22          A.     Because if they can't catch on that  
23    I'm in there pulling prescriptions on  
24    Dr. Franklin, that's not for me to tell them  
25    what to do. Pharmacists weren't dispensing. I

1     didn't have to tell them. They were telling me  
2     when I walked in and said, "I'm Agent Pavlich.  
3     I'm not assigned to this county but I'm  
4     investigating Dr. Franklin, and I'm here to  
5     pull profiles and prescriptions on patients."  
6     And they knew right then. But they weren't  
7     really dispensing, those chains up there and  
8     independents up there. Why do you think the  
9     patients drove, you know, 50 miles down the  
10    road to go to Overholt? Because they weren't  
11    getting it dispensed up there. They were  
12    getting it at Overholt. They were compliant.  
13    I didn't charge anybody in any of those chains  
14    or independents up there or anywhere else with  
15    a crime, only at Overholt Pharmacy, because  
16    that's where it was. There were -- in my  
17    opinion, they were all compliant, because if  
18    they weren't, I would have charged them,  
19    period.

20           Q.     Did you retain a medical expert in  
21    your investigation?

22           A.     Dr. Piszal, pain management doctor.

23           Q.     Why did you need a medical expert?

24           A.     Well, based on my college  
25    education, I didn't have a medical degree, so

1     when I did criminal cases on doctors, I always  
2     found a medical expert. If it was a judgment  
3     call as to what they were prescribing, what  
4     combinations they were prescribing, what  
5     quantities they were prescribing, I need  
6     another doctor, and I always tried to get one  
7     that was a little bit more qualified than the  
8     one that was prescribing, whereas Franklin was  
9     a family practice doctor and Piszal was a pain  
10    management expert. So you get the pain  
11    management expert to say this guy doesn't know  
12    what he's doing and it's way out of whack. And  
13    that's what I did. And Piszal started  
14    reviewing things for me.

15           Q.     Did you need a medical expert in  
16    order to determine the legitimacy of the  
17    prescriptions?

18           A.     No. I pretty much figured that out  
19    myself.

20           Q.     But you did retain a medical expert  
21    to review the prescriptions for you as part of  
22    the investigation?

23           A.     Yes, because I was going to indict  
24    the doctor, so when you indict the doctor, you  
25    want a medical expert to concur with what

1     you're thinking.

2             Q.     If you look at the top of page 5741  
3     of your search warrant --

4             MR. APPEL:   Sorry.   This is Henry  
5     Appel.   Just a quick question.   When do you  
6     want to take a break?   We've been going for  
7     over two hours now.

8             MR. BARNES:   Let me finish with  
9     this search warrant, which should just take a  
10    few minutes.

11            THE WITNESS:   I'm fine.   Go as long  
12    as you want.

13            THE VIDEOGRAPHER:   I need to break  
14    for the media unit soon, so --

15            MR. BARNES:   All right.   Let me ask  
16    a few questions.

17            Q.     You see, Mr. Pavlich, that your  
18    search warrant says, "Prior to meeting  
19    Dr. Sidari, this agent met with pharmacists from  
20    Rite-Aid, Giant Eagle and Walmart in  
21    Middlefield, Ohio.   These same pharmacists  
22    stated they filed many complaints with the local  
23    police and former Agent Bodi since 2006  
24    regarding excessive quantities and combinations  
25    of controlled drugs prescribed by Dr. Franklin

1 to his patients. These various pharmacists in  
2 Middlefield, Ohio confirmed that they refused to  
3 dispense medication for the majority of patients  
4 issued prescriptions by Dr. Franklin. The  
5 pharmacies all stated that the patients they  
6 turned away were now having their prescriptions  
7 dispensed at Overholt's Pharmacy."

8 And that's pretty much consistent  
9 with what you just described to me?

10 A. That is. I don't remember writing  
11 this in here, but yeah, that's sworn under  
12 oath, that's what I recall now that I put it  
13 there. That's true.

14 Q. Page 5749 has some of the details of  
15 your checking with Walmart and Rite-Aid and  
16 Giant Eagle pharmacists I guess reflecting some  
17 of the summary information we just covered on  
18 page 5741.

19 A. 5749. I was very thorough. I  
20 mean, I went everywhere and I did everything I  
21 needed to do to lock in. And once I was locked  
22 and loaded, it was over for the pharmacist and  
23 the doctor. And if you look here, very  
24 interesting. This does bring memories back to  
25 me on page 5749. The medical board

1 investigator, Jeff Lewis, and DEA diversion  
2 investigator, Scott Brinks, had gone in and  
3 warned the doctor about his prescribing drugs,  
4 warned him. This is -- I had a conversation  
5 with them later on during my investigation.

6 MR. BARNES: All right. Why don't  
7 we take a ten-minute break. It's 2:43. We'll  
8 get back on at 2:53.

9 (Recess had.)

10 THE VIDEOGRAPHER: We are going off  
11 the record at 2:43 and this marks the end of  
12 media unit number 3.

13 (Recess had.)

14 THE VIDEOGRAPHER: We are back on  
15 the record at 2:58. This marks the beginning  
16 of media unit number 4.

17 BY MR. BARNES:

18 Q. Mr. Pavlich, we're back after a  
19 short break.

20 You mentioned in your earlier  
21 testimony before the break that you had  
22 convicted the coroner of Mahoning County?

23 A. That is correct.

24 Q. What was he doing?

25 A. A lot of bad things. He was

1 writing controlled substances for a patient  
2 specific, at least one that I remember, and  
3 then getting the drugs back to him by the  
4 patient's husband, and then he was  
5 redistributing them. He was convicted in  
6 Trumbull County by Prosecutor Dennis Watkins,  
7 Chris Becker.

8 Q. Did his controlled substance  
9 prescriptions include opioids?

10 A. Yes. I believe it was oxycodone  
11 I'm thinking, oxycodone prescriptions.

12 Q. What magnitude are we dealing with?  
13 Was it anything like Dr. Franklin?

14 A. No. No one compared to Dr.  
15 Franklin. His volume was off the chart.

16 Q. But who was this coroner? What was  
17 his name?

18 A. Nathan Belinky, B-E-L-I-N-K-Y.

19 Q. And for what period of time was he  
20 writing bad scripts or diverting controlled  
21 substances?

22 A. It was in the '90s. I don't  
23 remember exact time frame here. I would have  
24 to look at my scrapbook over there.

25 Q. Okay. And you said earlier that you

1 had in your career investigated or convicted  
2 about 90 doctors?

3 A. Give or take for various things,  
4 self-abuse, you know, over-prescribing. I  
5 mean, there was a lot of cases I did. I did a  
6 lot.

7 Probably the other biggest one was  
8 in -- if we're talking Trumbull County, there  
9 was three -- three physicians, Masters,  
10 Sherman, and Theisler. They were working out  
11 of a pain clinic. That was a pretty big case.  
12 Nothing compared to Franklin, but it was pretty  
13 big.

14 Q. And what was the name of that pain  
15 clinic?

16 A. I don't recall. It was on East  
17 Market Street, I believe, just on the outer  
18 edge of Warren there. It might have been  
19 Howland. I can't think of the name of the  
20 clinic, but those are the three doctors.  
21 Diesler took me to trial -- he lost -- Sherman  
22 pled, and Masters died before I could convict  
23 him.

24 Q. What were they convicted of doing?

25 A. Trafficking, illegal processing of

1 drugs.

2 Q. Including opioids?

3 A. Yes, sir.

4 Q. Do you recall any specifically?

5 A. The normal, oxycodone drugs. Those  
6 were the primary ones, oxycodone, if I remember  
7 correctly.

8 Q. In what kind of volumes were these  
9 three doctors prescribing?

10 A. I caught them pretty early on, but  
11 it was substantial. It was enough to make them  
12 plead or go to trial and be convicted. I just  
13 don't remember the volume on that case. That  
14 was -- that was before the internet case and  
15 before the Franklin/Overholt case.

16 Q. Did you become familiar in your job  
17 with the sources of pharmaceutical diversion in  
18 Trumbull County and Lake County?

19 A. Not Lake County. Just Trumbull.

20 Q. And what were the primary sources of  
21 diversion in your experience?

22 A. Prescribers illegally prescribing,  
23 pharmacists improper dispensing, patients  
24 diverting prescription medication. Those would  
25 be the three top.

1           Q.       The patients, what type of diversion  
2       did the patients engage in in your experience?

3           A.       Well, they would get their  
4       prescription and they would sell their drugs.  
5       So they would have maybe an insurance company  
6       pay for their prescription. Let's say it was  
7       only 60 tablets of Percodan, or let's say it  
8       was 90 tablets of Percodan or Percocet, which  
9       is an oxycodone opiate. But they only really  
10      needed one tablet a day. They didn't need  
11      three a day. So they would sell 60 a month,  
12      make a nice profit, and use 30 for themselves.  
13      And then if the doctor ran a drug check on  
14      them, it would show that they had oxycodone in  
15      their system. Who would know but me if I put  
16      it together.

17          Q.       Was that a problem in Trumbull  
18      County, patients diverting their own  
19      prescriptions?

20          A.       It's a problem everywhere.

21          Q.       Did you believe at any time that any  
22      of the pharmacy Defendants were the source of  
23      pharmaceutical diversion?

24          A.       Pretty broad question, don't you  
25      think? There was prescriptions filled at all

1 the chains, all the independents and pretty  
2 much say that maybe at some time or another  
3 were diverted. I mean, I would never make a  
4 broad answer to say no.

5 Q. I see. I think I misspoke in my  
6 questioning. It is too broad of a question.  
7 What I meant to say was did you at any time ever  
8 believe that any of the chain pharmacies,  
9 including the pharmacy Defendants, were causing  
10 diversion in Trumbull County?

11 A. Only if I charged and convicted  
12 someone, and that would be in the records of  
13 the Board of Pharmacy on cases I did.

14 Q. Okay. Now, you had occasion --  
15 getting back to Dr. Franklin, you had occasion  
16 to conduct some inspections of the Overholt  
17 Pharmacy as part of your investigation, didn't  
18 you?

19 A. There was one major inspection we  
20 did. It was about a month or so after I was  
21 directed to put them together. And I went in  
22 there with Specialist Predina, and about three  
23 or four field agents, including my supervisor,  
24 Jim Reye, who was a field supervisor.

25 Q. If you look at Exhibit 53 in your

1 binder, there's an inspection report for the  
2 Overholt Pharmacy. It's dated 4-15 of '08.

3 Do you see that?

4 A. I see it.

5 Q. Is this the inspection you just  
6 referenced, the major inspection that you did  
7 early in your investigation?

8 A. Let me see. Okay. This was April  
9 15th of '08, and if I recall, it was March  
10 something that I was assigned both cases. And,  
11 yes, this is after I gathered some details.  
12 And on this particular one it shows Dave  
13 Gallagher, Joanne Predina, Tom Mish, and I  
14 think Jim Reye were with me when I went in  
15 there. And then -- this is Joanne's  
16 handwriting on page 1. She started to write it  
17 out and I let it go.

18 Q. Did you find any problems when you  
19 did this inspection?

20 A. Yeah. There was a lot of problems.  
21 They were well noted. Everything was noted. I  
22 had -- Joanne the pharmacist, of course, the  
23 specialist, I had her documenting this so that  
24 I didn't -- I was throwing things at her and  
25 she would, you know, do a summary on a blank

1 sheet of paper, and then she went and compiled  
2 this. And there were scripts we took out of  
3 there. There was a bunch of prescriptions we  
4 took out of there.

5 Q. The pharmacist on location at the  
6 time are Robert Graves and Andrea Luchette. I  
7 think you referenced both of them as  
8 subsequently being convicted for their  
9 participation in this matter?

10 A. All three pharmacists are noted  
11 that were convicted.

12 Q. Including Ken Overholt?

13 A. Luchette.

14 Q. Can you tell us in general what  
15 happened during this inspection and how was it  
16 different from some of the inspections that  
17 we've gone over?

18 A. Well, they knew there was a  
19 problem. We'll put it that way. I don't walk  
20 in a pharmacy with four or five other people to  
21 say hello. They knew what I was gathering,  
22 obviously, and they were cooperative. I mean,  
23 what else were they going to do? And I got  
24 everything I needed out of there. And I  
25 believe -- let me think back here. I believe

1 Joanne and I interviewed -- I don't know if  
2 Graves was in there at the time. But I  
3 remember I think Luchette and Overholt were  
4 there. This is signed by Andrea Luchette I  
5 see. I don't know if Ken Overholt was there or  
6 not. But I know we interviewed for sure Ken  
7 Overholt and Andrea Luchette.

8 Q. Did you tell them they were being  
9 investigated for improperly dispensing  
10 controlled substance prescriptions written by  
11 Dr. Franklin?

12 A. I told them I was conducting an  
13 investigation regarding prescribing by  
14 Dr. Franklin and I'm here investigating them at  
15 this point, too. I believe that's what I told  
16 them. And I believe I interviewed -- like I  
17 say, if I remember correctly, Andrea signed  
18 this, so she was there, and I believe Joanne.  
19 I know Joanne and -- I interviewed her.

20 Q. And did you tell them that they were  
21 being investigated for filling prescriptions for  
22 high doses of multiple narcotics combined with  
23 amphetamines and other narcotics?

24 A. I did.

25 Q. Is this a good example of, I'll call

1 it, a bad inspection, it's not the kind of  
2 inspection you want to get?

3 A. The worst of the worst.

4 Q. And did you remove a lot of patient  
5 records from this pharmacy, Overholt Pharmacy,  
6 during this inspection?

7 A. A lot, a very voluminous amount,  
8 original prescriptions and I believe patient  
9 profiles, too.

10 Q. There was a subsequent inspection of  
11 the same pharmacy. If you look at Exhibit 20 --

12 A. 20?

13 Q. 20, yes.

14 A. This is after -- this is -- he's --  
15 he sold the pharmacy.

16 Q. Oh, I see.

17 A. This is not during -- this is --  
18 the guns have been fired and the battle is over  
19 with this inspection.

20 Q. This is the new guy who bought the  
21 pharmacy after --

22 A. Yeah. This is with him, yeah.  
23 Yeah, that was just an issuance of the new TDDD  
24 license. It says right on there. That's the  
25 new terminal distributor license being issued.

1 That's what that is.

2 Q. All right. So this is post --  
3 post-Franklin or post-Overholt?

4 A. Yeah. He knew it was coming down  
5 and he knew he was going to probably lose his  
6 store license, and he sold it, which was okay,  
7 I guess. The board issued it. So I didn't  
8 take license on the pharmacy.

9 Q. You allowed him to sell it?

10 A. I didn't. The Board of Pharmacy  
11 allowed it, not me. I would have had a  
12 citation issued to take the pharmacy license,  
13 too, as I did the three pharmacists' personal  
14 licenses. But, you know, obviously this  
15 happened before their final conviction. He was  
16 still -- yeah, he was still a pharmacist  
17 because his name is on the front sheet, Ken  
18 Overholt, RPh, 03-2-13266, so he was still  
19 licensed pending the actual revocation of his  
20 license. This is '09.

21 Q. In your experience, Agent Pavlich,  
22 would you inform pharmacists in the area if a  
23 doctor was under investigation before he was  
24 actually charged or convicted?

25 A. Well, I wouldn't make a roundabout

1 phone call to everybody and tell them, hey. I  
2 didn't have to. If I went to one pharmacy and  
3 pulled scripts out, believe me, they spread the  
4 word. So the answer is no.

5 Q. Okay. You referenced Joe Harrington  
6 being the -- kind of the impetus of the Franklin  
7 investigation. Is this the Joe Harrington shown  
8 in Exhibit 30, his pre-sentence report?

9 A. He was a bad boy. Oh, yeah, that's  
10 Joey. That's him.

11 Q. And he was convicted and sentenced  
12 for his role in the Franklin/Overholt matter?

13 A. No. I did not handle his case.  
14 That was out of -- I believe Lake County  
15 handled this. I don't -- I'm not sure. I  
16 didn't handle it. Yeah, this is Lake County  
17 Adult Probation. So no, I didn't have anything  
18 to -- all I did was get information that I  
19 needed from Mr. Harrington and told him you got  
20 to deal with these guys up in Lake County and  
21 I'm going to deal with everything else, so  
22 cooperate, and he did.

23 Q. Do you remember a -- an incident  
24 involving John Mullin, M-U-L-L-I-N?

25 A. Big John Mullins, yes, I remember.

1 John Wayne Mullins was his name, if I remember  
2 correctly. That was in Trumbull County.

3 Q. And is Exhibit 34 your search  
4 warrant for John Wayne Mullins -- I guess it's  
5 with an S, M-U-L-L-I-N-S.

6 A. Yes. This is another one of mine.  
7 I wrote it.

8 Q. Do you recall this investigation  
9 being instigated by a Rite-Aid pharmacist?

10 A. If I wrote it in here, it was. I  
11 don't recall who. I recall there was -- it  
12 came out of Girard, Ohio, which was in Trumbull  
13 County, and there were some fake prescriptions  
14 and a Captain Bigowsky had called me and I  
15 worked with him to put this together on John  
16 Wayne.

17 Q. Look at page 3644, please.

18 A. Okay, I'm here.

19 Q. At the top there's a reference to  
20 Rite-Aid pharmacy 2452, and it says, "Pharmacist  
21 Ross stated he had dispensed controlled  
22 medications for prescriptions in June and August  
23 2010 that were issued in the name of the  
24 following patient, which he later discovered  
25 were not authorized or written prescriptions

1 issued by the following prescribers."

2 Does that refresh your recollection  
3 that the Mullins investigation began with a tip  
4 from a Rite-Aid pharmacist?

5 A. Yes. I knew it was a pharmacy in  
6 Girard. I just couldn't remember which one.  
7 Yes, this is true.

8 Q. And then the next exhibit, 35, is a  
9 news release regarding Dr. Masters, Dr. Sherman  
10 and Dr. Theisler?

11 A. There they are, yes, '04. It was  
12 '04. Another big case.

13 Q. And that was the name of the pain  
14 management -- or clinic was Pain Management  
15 Associates; is that right?

16 A. That's what Dennis Watkins noted so  
17 I'm agreeing with him. He was the best. And I  
18 said East Market Street and that's where it  
19 was, East Market.

20 Q. This investigation involved  
21 pre-signed prescriptions to patients for  
22 Schedule II and III controlled substances. Am I  
23 reading it --

24 A. Part of it did. Part of it did.  
25 What was going on was -- I'll give you the

1 short window. Masters and Sherman were M.D.s.  
2 Theisler was a chiropractor I believe. Let me  
3 look here. Wait a minute. He didn't have  
4 prescribing privileges so he probably was a  
5 chiropractor. And Masters was sickly. So he  
6 would go in the office and take a hundred or  
7 whatever blank prescriptions and sign his name,  
8 Dr. Masters, and then Theisler would get his  
9 patients to come in, and he'd be the doctor,  
10 but he wasn't an M.D., and then he would use  
11 the blank prescription and fill in what he  
12 wanted for the patient to get, controlled  
13 substances. And then the patients would go out  
14 and fill them. And then, you know, me as a  
15 pharmacist, if I'm standing in a pharmacy and a  
16 guy comes in and a signature looks like  
17 Dr. Masters, which they're very good at  
18 detecting, they filled them, until I caught on  
19 to what was going on.

20 I got a call -- as a matter of  
21 fact, I remember who called me. Her name was  
22 Vogren. She was a Rite-Aid pharmacist. I  
23 believe it was Rite-Aid. Yeah, it was a  
24 Rite-Aid pharmacist. Her name was Vogren. I  
25 don't remember her first name. It could have

1     been Joanne. And she said, "You know, there's  
2     something odd here, you know. I know the  
3     doctor is in the hospital." How she knew this  
4     I don't remember, but -- "and I'm getting  
5     prescriptions from his office with his  
6     signature on them." And I'm like, "Really?"

7                     I started looking into it, and then  
8     I found that -- what I realized was he was  
9     pre-signing prescriptions, Theisler was using  
10    them, and Dr. Sherman, who was a younger  
11    doctor, was self-abusing drugs that -- I mean,  
12    very powerful opiate drugs that he was having  
13    shipped into the office on the alleged fact  
14    that he was dispensing them to patients. He  
15    was using them himself. He was a big-time IV  
16    user, opiate abuser. That's what that case  
17    involved. And I took them out of Trumbull  
18    County. Everything was done in Trumbull  
19    County.

20            Q.     In your experience as an agent, did  
21    you become familiar with pharmacies that  
22    substantial percentages of their prescriptions  
23    were controlled substance prescriptions? I  
24    guess Overholt Pharmacy would be an example of  
25    that.

1           A.       Overholt was the king. Yeah, there  
2       was a number of problems out there with  
3       pharmacies. To be honest, I had a lot of  
4       problems with independents, a lot, a lot of  
5       independent practicing pharmacists, too. I had  
6       a lot of cases on them, not only in my counties  
7       but I was sent out to other counties to work  
8       cases and big problems.

9           Q.       What types of problems?

10          A.       Let's put it this way. What's an  
11       independent -- or not an independent. What's a  
12       chain pharmacist have to gain by filling a  
13       bunch of prescriptions for a physician in a  
14       chain pharmacy where he's on salary? What's he  
15       got to gain versus an independent who's making  
16       a volume of money? That's how I looked at it.  
17       That's how I -- I mean, what do I know, but I  
18       tell you that's how I look at it.

19          Q.       What types of problems did you  
20       observe with the independent pharmacies? You  
21       said that you had a lot of problems with the  
22       independents.

23          A.       Yeah. Illegal processing of drug  
24       documents, theft of drugs, trafficking in  
25       drugs, all of the above. I mean, I had a lot

1 of problems in independent stores.

2 Q. And, in your view, were the  
3 independent pharmacies a substantial source of  
4 pharmaceutical diversion in Lake and Trumbull  
5 Counties and surrounding counties?

6 MR. WEINBERGER: Objection.

7 A. I can't speak for counties I didn't  
8 work.

9 Q. Okay.

10 A. Trumbull County, they were at  
11 Overholt Pharmacy. I mean, that jumps right  
12 out at me. There was another pharmacy that was  
13 filling scripts for this Masters. It was an  
14 independent. It was like the next plaza up. I  
15 can't think of the name of it. Something Mart.  
16 And -- maybe Drug Mart or something. It wasn't  
17 a chain. And the owner was not a pharmacist.  
18 He had pharmacists working in there. But he  
19 closed. He closed. So --

20 Q. The problems that you saw at the  
21 independent pharmacies, did you attribute that  
22 to not having any oversight, any corporate-type  
23 oversight?

24 A. No. I attributed it to greed.  
25 Every case I ever worked, every case I ever

1     worked had three factors, greed, self-abuse or  
2     sex, every case, not all three in the same case  
3     but those three factors always came into play,  
4     at least to my best memory. So an independent  
5     has no oversight besides the owner of the  
6     store, who's happy to fill all the scripts he  
7     can fill and make a profit. Sure, a chain has  
8     supervisors, corporate office. But what's he  
9     got to gain? You know, what do I got to gain,  
10    you know? I'm getting my salary if I fill one  
11    script or a hundred, at least my thinking.

12                 MR. BARNES: I don't have any  
13    further questions, Mr. Pavlich. Thank you for  
14    your time. Some of my co-counsel may have some  
15    questions. I think Walgreens counsel -- Kate,  
16    do you have questions?

17                 MS. SWIFT: I do.

18                 MR. BARNES: Do you want to take a  
19    short break before you start?

20                 MS. SWIFT: Yeah. Can we take not  
21    even five minutes, just a couple of minutes, so  
22    I can get myself organized a little bit?

23                 MR. WEINBERGER: This is Pete. How  
24    long are you going to be?

25                 MS. SWIFT: I'm going to do it as

1 fast as I can, Pete. I'm terrible at  
2 predicting so I'll try to over-predict and say  
3 an hour and then hopefully everyone will be  
4 happily surprised.

5 MR. WEINBERGER: Henry, Mr. Appel

6 --

7 MR. APPEL: Yes.

8 MR. WEINBERGER: -- what's our  
9 situation on time with this witness because  
10 I've got some significant cross-examination?

11 MR. APPEL: I can stay -- I have --  
12 my understanding is there's a cap from the  
13 court on the number of hours for the  
14 deposition, but, you know, I don't know how  
15 much time we have left on that.

16 George, do you have any limits on  
17 your time today?

18 THE WITNESS: No. I hope I'm  
19 getting paid for this. That's all I could say.

20 MR. APPEL: You know what, me too.

21 MR. MOYLAN: And for CVS, I  
22 think -- this is Dan Moylan. I think we may  
23 have around 20 minutes to a half an hour,  
24 probably no more than that.

25 MR. NORTEY: And for Rite-Aid --

1     this is James Nortey. We're going to have  
2     about 25 minutes of questions.

3                 MR. WEINBERGER: So, Mr. Appel --  
4     am I pronouncing your name correctly? I don't  
5     want to mispronounce it.

6                 MR. APPEL: Appel.

7                 MR. WEINBERGER: Mr. Appel, so the  
8     seven-hour limit is really with respect to  
9     depositions of the parties and I'm not aware of  
10    any limitation with respect to third-party  
11    witnesses. So in view of the fact that we're  
12    talking about the possibility of my not being  
13    able to get to examine this witness until 5 or  
14    5:30, and because I've got probably several  
15    hours, what's your -- what are your thoughts?

16                MR. BARNES: Before you answer,  
17    Henry, I will have to interpose. It's my  
18    understanding that all depositions are limited  
19    to seven hours, unless there's some agreement  
20    in advance or as directed by the court. I  
21    don't think Plaintiffs noticed this --  
22    cross-noticed this deposition at all, did they?

23                MR. WEINBERGER: We didn't  
24    cross-notice it, but that has nothing to do  
25    with -- I'm not required to cross-notice a

1 deposition in order to cross-examine the  
2 witness that you've subpoenaed. I have a  
3 right -- if there's any possibility that  
4 this -- that you intend to play this deposition  
5 at trial -- I'm not sure that you could, but  
6 let's assume that you attempted to do so -- I  
7 have a right to cross-examine this witness.  
8 You can't cut off my time limitation in order  
9 to do that. I mean, you took five hours.

10 MR. BARNES: Right. I was the  
11 noticing party. I was the one that went  
12 through all of the exhibits I needed to go  
13 through. You didn't -- Plaintiffs didn't  
14 notice -- cross-notice, like they did with DEA,  
15 for example. I notice they cross-noticed --

16 MR. WEINBERGER: Well, that's  
17 different. That's -- you know, that was  
18 pursuant to a Touhy letter and pursuant to  
19 negotiations with the Department of Justice.  
20 That has nothing to do with what's going on in  
21 this deposition.

22 MS. FITZPATRICK: Pete, just to add  
23 in -- this is Laura Fitzpatrick -- we -- you  
24 all recently noticed the FDA deposition and  
25 Plaintiffs did not cross-notice and there were

1 no issues with us asking questions.

2 MR. BARNES: I'm not trying to  
3 prevent you from asking questions. I'm saying  
4 that, in fairness to the witness and his  
5 counsel, it's my understanding that all  
6 depositions are limited to seven hours.

7 MR. WEINBERGER: Well, that's  
8 exactly my point. That's why I'm discussing  
9 this up front with Mr. Appel. You know, our  
10 position -- I've made my position known, and if  
11 in the break you want to talk with Agent  
12 Pavlich about coming back for a further  
13 deposition, you know, we're happy to entertain  
14 that conversation, but I'm not going to end  
15 this deposition without having the full and  
16 complete right to do my cross-examination.

17 MR. APPEL: How many hours are you  
18 expecting your cross to take?

19 MR. WEINBERGER: Several hours.

20 MR. APPEL: Is that two or six?

21 MR. WEINBERGER: No. Several means  
22 two or three.

23 MR. APPEL: I'll tell you what.  
24 We're on a break anyways. Why don't I give --  
25 I'll -- I'm going to give my client a phone

1 call, we'll talk for a second about this, and  
2 then we can -- and then I will get back on, all  
3 right?

4 MR. WEINBERGER: Very good. Thank  
5 you.

6 THE VIDEOGRAPHER: This marks the  
7 end of media unit number 4. Going off the  
8 record at 3:33.

9 (Recess had.)

10 THE VIDEOGRAPHER: We are back on  
11 the record at 3:44. This begins media unit  
12 number 5.

13 MR. WEINBERGER: Mr. Barnes, you're  
14 passing the witness to me?

15 MR. BARNES: I am.

16 EXAMINATION OF GEORGE P. PAVLICH

17 BY MR. WEINBERGER:

18 Q. Good afternoon, Agent Pavlich. My  
19 name is Peter Weinberger and I'm privileged to  
20 represent Lake and Trumbull Counties in this  
21 particular deposition in this case. I  
22 appreciate your patience in sitting for this  
23 deposition and, so, you know, I will try to make  
24 this as brief as possible, and if you want to  
25 take a break at any time, just let me know and

1 we can stop. Fair enough?

2 A. I'm ready when you are.

3 Q. All right. Very good.

4 Can you hear me okay? Is there any  
5 problem with transmission?

6 A. No. I don't see your video.

7 Q. Okay. Well, I think -- can you see  
8 me now?

9 A. Negative.

10 Q. All right. Well, I think you have  
11 to adjust your screen with the arrow going one  
12 way or the other at the top so that you can see  
13 me.

14 A. Not that I need to, but I don't  
15 know what you're talking about, "one way or the  
16 other."

17 THE VIDEOGRAPHER: On the top it  
18 says "gallery view" or "speaker view." I think  
19 if you go to speaker view, you will see who is  
20 speaking.

21 THE WITNESS: All right. So what  
22 do I do here now?

23 MR. WEINBERGER: Can you hear me  
24 now or can you see me now?

25 THE WITNESS: No. Which one do I

1 click on? Which one are you?

2 THE VIDEOGRAPHER: Speaker view,  
3 the very top right.

4 THE WITNESS: Yeah, I clicked  
5 speaker view and it's got --

6 MR. WEINBERGER: Spangenberg Law is  
7 what my screen shows. That's my law firm.

8 THE WITNESS: I don't see it.

9 MR. THOMAS: This is Clint, the  
10 tech. I mean, if we want to go off the record,  
11 we can go off the record, we can work on this.  
12 If the witness is fine with proceeding, we can  
13 also just proceed.

14 THE WITNESS: Yeah, I don't need to  
15 look at him.

16 MR. THOMAS: Let's just proceed  
17 then.

18 Q. Agent Pavlich, it's obvious from  
19 your testimony today that you have spent a great  
20 deal of your career while at the Ohio Board of  
21 Pharmacy trying to stem the tide of the opioid  
22 epidemic, true?

23 A. True.

24 Q. So let's talk a little bit about the  
25 opioid epidemic for a few minutes.

1                   You will agree with me that we have  
2                   been suffering from an opioid epidemic in this  
3                   country for about 20 years?

4                   MR. BARNES:   Objection to form.

5                   A.        I have no idea how many years the  
6                   epidemic --

7                   Q.        At least as long as you've been  
8                   working at the Ohio -- as long as you worked in  
9                   your career at the Ohio Board of Pharmacy,  
10                  correct?

11                  A.        There has been a problem with abuse  
12                  of opiate drugs during my time frame.  
13                  Epidemic, I don't understand.

14                  Q.        Well, epidemic in the sense of more  
15                  and more and larger groups of people, numbers of  
16                  people, suffering the effects of opioid  
17                  addiction.   If I define it that way, can we  
18                  agree?

19                  MR. BARNES:   Objection to form.

20                  A.        I agree there's a problem out  
21                  there.

22                  MR. WEINBERGER:   Who is objecting  
23                  to form?

24                  MR. BARNES:   That would be me.

25                  MR. WEINBERGER:   I don't know who

1 "me" is.

2 MR. BARNES: Bob Barnes.

3 MR. WEINBERGER: So are you  
4 suggesting that I'm not entitled to  
5 cross-examine this witness?

6 MR. BARNES: No. I'm suggesting  
7 that -- I'm objecting to the form of your  
8 question, just like you objected to the form of  
9 some of mine.

10 MR. WEINBERGER: I was objecting to  
11 form because you were not -- there were times  
12 when you were not engaging in direct  
13 examination.

14 MR. BARNES: As you are.

15 MR. WEINBERGER: Well, I'm entitled  
16 to cross this witness.

17 MR. BARNES: I'm objecting to form.

18 MR. WEINBERGER: Are you suggesting  
19 I'm not entitled to cross this witness?

20 MR. BARNES: I'm suggesting that  
21 your question is improper so I'm objecting to  
22 form.

23 Q. Agent Pavlich, can we agree that the  
24 over-prescribing and over-dispensing of opioid  
25 prescription pills contributed greatly to the

1       opioid problem, as you've described it?

2                   MR. BARNES:   Object to form.

3       You're asking this witness for a legal  
4       conclusion, an expert conclusion, and so I  
5       object on both bases.

6           Q.       You can answer.

7           A.       It's not the sole problem.  There's  
8       drugs that come across the border from Mexico.  
9       They're opiates.  It's not the sole problem.

10          Q.       But the over-prescribing and  
11       over-dispensing of opioid prescription pills has  
12       been a problem in our country for at least the  
13       last 15 to 20 years, correct?

14                  MR. BARNES:   Objection to form.

15          A.       I'm not knowledgeable as to what  
16       extent you're talking about.

17          Q.       Well, in your -- can we agree that  
18       the problem with the over-prescribing and  
19       over-dispensing of prescription opioid pills  
20       began with the development and marketing of  
21       OxyContin in the late 1990s by Purdue  
22       Pharmaceuticals?

23          A.       OxyContin was a problem.

24          Q.       And you're aware of the fact, are  
25       you not, if you keep up with this in the

1 newspapers, that just in the last 30 days,  
2 Purdue Pharmaceuticals pled guilty to three  
3 federal -- to indictments involving three  
4 federal offenses. Are you aware of that?

5 A. I'm aware of them pleading to  
6 something. I don't know the extent.

7 Q. Well, we know, and the records  
8 reflect, that Purdue pled guilty to mail fraud  
9 involving the fraudulent promotion of OxyContin  
10 as a non-addictive drug. Are you aware of that?

11 A. Nope, I am not.

12 Q. Are you aware of the fact that  
13 Purdue Pharmaceuticals pled guilty to bribing  
14 doctors?

15 A. No, I am not.

16 Q. Well, you're well familiar with  
17 Purdue Pharmaceuticals, are you not?

18 A. I am. Not well but I know they  
19 produced OxyContin.

20 Q. Well, there was a time in the past  
21 when you had contact with Purdue Pharmaceuticals  
22 relating to one of your investigations, right?

23 A. I don't recall specifically talking  
24 to anybody at Purdue Pharmaceuticals.

25 Q. But we can agree that OxyContin, the

1 prescription -- the marketing and prescription  
2 of OxyContin was a significant factor in the  
3 opioid prescription problems in our country,  
4 true?

5 MR. BARNES: Object to form.

6 A. Marketing was probably a factor.

7 Q. Now, in your materials, Agent  
8 Pavlich, there's an Exhibit 4, which we're going  
9 to -- which I'd ask that you pull up.

10 A. That's not in the binder. You're  
11 talking about the sealed documents?

12 Q. Well, I think Exhibit -- I don't  
13 know where Exhibit 4 is.

14 MR. WEINBERGER: Bob, is it in the  
15 sealed documents or is it --

16 A. These are marked A through L.

17 Q. We're looking at Exhibit 4.

18 A. Okay. Sorry.

19 Q. That's okay.

20 A. Okay, I see it.

21 Q. Now, this is the title page -- and  
22 we're going to bring it up on the screen. This  
23 is -- this is Exhibit 4, Defendants' Deposition  
24 Exhibit 4, Edwards 4. This came from documents  
25 that were subpoenaed by the Defendant pharmacies

1 from the Ohio Board of -- Ohio State Board of  
2 Pharmacy.

3 Do you understand that?

4 A. I understand that.

5 Q. Okay. And they've marked this  
6 Exhibit 4, and they went over parts of Exhibit 4  
7 at the deposition of Mr. Edwards last Friday.  
8 First of all, you see from the title page it  
9 says, "OARRS, a Guide for Law Enforcement,  
10 presented by the Ohio State Board of Pharmacy  
11 and the Ohio Office of Criminal Justice  
12 Services."

13 Do you see that?

14 A. Yeah, I see that.

15 Q. The Ohio State Board of Pharmacy is  
16 the government organization that you worked for,  
17 correct?

18 A. Not at this time, but yes.

19 Q. That you worked for in the past. I  
20 understand you left there in 2012, right?

21 A. Right.

22 Q. And so this -- I'll represent to you  
23 that this is an official document from the Ohio  
24 State Board of Pharmacy and the Ohio Office of  
25 Criminal Justice Services. Do you know what

1 that department is, the Ohio Office of Criminal  
2 Justice Services?

3 A. I have no idea.

4 Q. All right. But you're certainly  
5 familiar with who the Ohio State Board of  
6 Pharmacy is, correct?

7 A. I'm familiar who they are.

8 Q. And you know Trey Edwards as a  
9 colleague of yours and somebody who you trained  
10 as a compliance agent, correct?

11 A. Yes.

12 MR. THOMAS: Real quick, counsel,  
13 your mic is kind of -- is going in and out in  
14 quality right now. Are you like leaning away  
15 from your microphone now or anything like that?

16 MR. WEINBERGER: I am not, but is  
17 this better?

18 MR. THOMAS: Yes, that sounds  
19 better. Thank you.

20 MR. WEINBERGER: All right. I'll  
21 stay close to the screen.

22 Q. Now, if you would go to the -- go to  
23 page 3 of this PowerPoint presentation. This  
24 appears to be a video entitled "Red Flag." Do  
25 you -- have you ever seen a video produced by

1 the Ohio State Board of Pharmacy that is  
2 entitled "Red Flag"?

3 A. No.

4 Q. In the context of dispensing, what  
5 does -- what does a red flag mean?

6 A. I have no idea. I never used it.

7 Q. All right. Fair enough. Let's go  
8 on to page 5 of this presentation. This slide  
9 defines drug diversion as any criminal act  
10 involving a prescription drug, includes theft of  
11 drugs, tampering with drugs, deception to obtain  
12 dangerous drugs, and illegal processing of drug  
13 documents. Do you agree with that?

14 A. You need to talk closer to the  
15 screen, but I agree these are four concepts.

16 Q. Okay. I've got my volume turned up  
17 all the way. Hopefully this will work.

18 MR. THOMAS: We might need to go  
19 off the record because your mic -- it sounds  
20 like your mic is having a lot of issues.  
21 Counsel, if you're okay going off the record, I  
22 can try and help you out with fixing it.

23 MR. WEINBERGER: Sure. That would  
24 be great. Let's go off the record.

25 THE VIDEOGRAPHER: We are going off

1 the record at 3:57 p.m.

2 (Recess had.)

3 THE VIDEOGRAPHER: We are back on  
4 the record at 3:59.

5 BY MR. WEINBERGER:

6 Q. Agent Pavlich, can you hear me well  
7 enough now?

8 A. Yeah, I can hear you.

9 Q. Great. Thank you. Thanks for the  
10 technical support.

11 Let's go to page 7 of this  
12 PowerPoint presentation. This slide from the  
13 Ohio Board of Pharmacy defines and categorizes  
14 controlled substances, and I want to look  
15 specifically at Schedule II. So can we agree,  
16 Agent Pavlich, that Schedule II controlled  
17 substances have a high potential for abuse,  
18 although it may have some medically acceptable  
19 use?

20 A. I agree.

21 Q. And in terms of Schedule II drugs,  
22 we're talking about many of the drugs that we've  
23 talked about so far in your deposition,  
24 including OxyContin, oxycodone, hydrocodone,  
25 correct?

1 A. Correct.

2 Q. And in terms of the description --

3 A. Hydrocodone is not a Schedule II  
4 when I was working. Hydrocodone is a Schedule  
5 II -- it's I think now a Schedule II.

6 Q. Correct. As of 2014 it was a -- it  
7 became a Schedule II.

8 A. There you go.

9 Q. You are correct.

10 With respect to Schedule II drugs,  
11 is it generally well known in the  
12 pharmaceutical industry, according to your  
13 knowledge, that these drugs have a high  
14 potential for abuse?

15 A. Yes.

16 Q. Let's go then to -- okay. We're  
17 going to go to -- I'm going to use the Bates  
18 numbers -- 26952. It's about four or five pages  
19 beyond this. This slide is -- talks about the  
20 background of the scope of drug abuse problems,  
21 and it says, "Prescription opioids are  
22 associated with more fatal overdoses than any  
23 other prescription or illegal drug, including  
24 cocaine, heroin, and marijuana combined."

25 Do you agree with that?

1           A.       I don't have an opinion.

2           Q.       Well, if that's a statement that  
3 comes out of the Ohio State Board of Pharmacy,  
4 do you have any reason to disagree with that?

5           A.       I don't have an opinion to this. I  
6 have no prior knowledge of this and I don't  
7 know if it is or not. I have no opinion.

8           Q.       All right. We are now going to go  
9 to page 13 of this exhibit. That is the page we  
10 just went through. Sorry. We are going now to  
11 page 14, which is the very next page. Do you  
12 have that in front of you or on the screen? Do  
13 you see it on the screen?

14          A.       I'm not even looking at my book.  
15 I'm looking at the screen, yes.

16          Q.       So this is a graph that shows  
17 unintentional drug overdose deaths of Ohio  
18 residents by the specific drug involved from  
19 2000 to 2011, and in the line below that that's  
20 darkened or highlighted, there's -- it says,  
21 "Still more deaths from prescription opioids  
22 than from cocaine, heroin, and marijuana  
23 combined." From your experience, did -- have  
24 you ever seen statistics that would serve the  
25 basis for this graph?

1           A.       No.

2           Q.       Let's go to the next slide. Again,  
3       it says the "Scope of the Drug Abuse Problem.  
4       The number of drug overdose deaths in Ohio  
5       increased 440 percent from 1999 to 2011, from an  
6       average rate of less than 1 death per day to  
7       approximately 5 deaths per day."

8                       Were you aware of that, sir, or do  
9       you agree with this statement?

10          A.       I'm not aware of this and I  
11       don't -- I don't know if it's true or not.

12          Q.       Well, if it is true -- I want you to  
13       assume it is true and it's being published by  
14       the Ohio State Board of Pharmacy. Going back to  
15       my earlier question as to whether or not we have  
16       an opioid epidemic in Ohio, do you believe that  
17       if this statement is true, that it is true that  
18       we have an epidemic?

19                       MR. BARNES: Object to form.

20          A.       I don't have an opinion either way,  
21       to be honest with you. I don't know who  
22       compiled these statistics and it had nothing to  
23       do with me and I don't work for the Board of  
24       Pharmacy anymore. So I have no knowledge or  
25       scope regarding this.

1           Q.       Let's go on to the very next page,  
2       which is page 15. I'm sorry. Page 17. So this  
3       slide from the Ohio Board of Pharmacy says that  
4       "In 2008, there were 14,800 prescription  
5       painkiller deaths," and that for every one  
6       death, there was ten treatment admissions for  
7       abuse, 32 emergency department visits for misuse  
8       or abuse, 130 people who abused -- who abuse or  
9       are dependent, and 825 non-medical users.  
10      Apparently this comes from the Center for  
11      Disease Control.

12                   Having seen these statistics, sir,  
13      do you agree that there was an opioid epidemic  
14      at least as of 2008 in this country?

15           A.       I've never seen these statistics,  
16      and whoever compiled them would agree that  
17      there was a problem, but it has nothing to do  
18      with me and I've never seen this before.

19           Q.       All right. Let's go on to the next  
20      slide, page 18 of the slide. And apparently, as  
21      you can see, this slide presentation was, at  
22      least in part, written or produced for a  
23      presentation being made by Mr. Edwards. We can  
24      agree with that?

25           A.       I can agree with that.

1           Q.       All right. Now, this slide, again  
2       it has as part of the background the "Scope of  
3       Drug Abuse Problem." And it says there, "Enough  
4       pain relievers were prescribed in Ohio in 2012  
5       for every man, woman, and child to receive 56.1  
6       milligrams of daily morphine equivalent doses."  
7       Do you have any reason to disagree with that?

8           MR. BARNES: Object to form.

9           A.       I have no idea who compiled this,  
10       had nothing to do with me, and that's all I  
11       could tell you.

12          Q.       Well --

13          A.       I'm not going to agree to something  
14       that I am not personally involved in. I have  
15       no reason to doubt whoever created this, but it  
16       had nothing to do with me and I ain't going to  
17       agree to something that I didn't personally  
18       prepare or investigate.

19          Q.       Well, Agent Pavlich, from, let's  
20       say, 1987 to 2012 you were an Ohio Board of  
21       Pharmacy agent and you were associated with the  
22       DEA federal task force, correct?

23          A.       I was an Ohio Board of Pharmacy  
24       agent and I worked in conjunction with other  
25       agents on the DEA and Mahoning County Drug Task

1 Force, yes.

2 Q. So during the course of that work  
3 did you ever come to understand what the per  
4 capita dosage of Schedule II opioids was in any  
5 of the counties where you worked?

6 A. No.

7 Q. Do you believe it was excessive  
8 during that time frame?

9 MR. BARNES: Object to form.

10 A. Excessive is a big word. I knew  
11 there was a problem. To what point, to  
12 excessiveness, I don't know.

13 Q. Well, would 92 doses per capita, in  
14 other words, for every man, woman and child in  
15 Trumbull County, if there were 92 doses of  
16 opioids per year, per capita, would that be an  
17 overwhelmingly large number?

18 MR. BARNES: Object to form.

19 A. I don't know. I really don't know.

20 Q. Let's look at the next slide, Agent  
21 Pavlich. This is a slide that's entitled  
22 "Prescription Analgesic Doses Per Capita," and  
23 the description of the map is that it shows the  
24 per capita prescription analgesic dosage rate.  
25 In 2012 the statewide average per capita dosage

1 rate was 67.7 doses per person, and then you can  
2 go to the map and see what the per capita rate  
3 was per county in 2012. Trumbull has 92 doses  
4 per capita.

5 Do you see that?

6 A. I do now.

7 Q. And Lake County has 64.6 doses per  
8 capita, right?

9 A. Yes.

10 Q. So what that means is that for every  
11 man, woman and child in Trumbull County, there  
12 was enough -- there were enough opioid  
13 analgesics dispensed that every man, woman and  
14 child could have received 92, if you're using a  
15 per capita number, correct?

16 A. Well, whoever compiled the  
17 statistics believed so. I did not compile  
18 these statistics.

19 Q. Well, if that is the case in 2012,  
20 Trumbull County had 92 dosage units per capita,  
21 can we agree that that is because there was  
22 over-prescribing and over-dispensing of drugs in  
23 that county?

24 MR. BARNES: Object to form.

25 A. I have no idea how these statistics

1       were compiled. I cannot answer something that  
2       I did not investigate or compile myself.

3               Q.       Well, have you ever -- have you had  
4       any contact with Mr. Edwards over the last five  
5       years?

6               A.       No. I had no contact with  
7       Mr. Edwards since I retired.

8               Q.       All right. Fair enough.

9                       Let's go on to slide 20. This  
10       slide describes the scope of the drug abuse  
11       problem and says that the "Kids and" -- "Kids  
12       and Drugs: The big picture. More than 2,000  
13       teens begin abusing prescription drugs each  
14       day. Teens abuse prescription drugs more than  
15       any other illicit drug, including marijuana.  
16       33 percent of teens say they believe it's okay  
17       to use prescription drugs that were not  
18       prescribed to them to deal with injury, illness  
19       or pain."

20                      Do you agree -- did you experience  
21       any of this while you were working as an agent  
22       for the Ohio State Board of Pharmacy?

23               A.       No. I never experienced any of  
24       this and I don't agree with this.

25               Q.       All right. Go on to the next slide,

1 slide 21. Do you agree that prescription drugs  
2 are the most commonly abused drugs among 12 and  
3 13-year-olds?

4 A. Not in my neighborhood.

5 Q. Do you agree that one in five teens  
6 who admit to abusing prescription drugs say they  
7 began before age 14?

8 A. No, I don't agree.

9 Q. What about the final statement, that  
10 20 percent of high school seniors, 1 in 5,  
11 report using prescription drugs in the past year  
12 without a prescription?

13 A. I would probably agree to that.

14 Q. Let's go on to the next slide.  
15 Again, this continues on with the problems of  
16 drug misuse and abuse among kids. The statement  
17 summarizes it with respect to peer influence.  
18 "49 percent of teens who abuse prescription  
19 drugs report getting them from friends."

20 Do you agree with that?

21 A. I don't know what percentage it is,  
22 but I believe it would be one of the factors,  
23 yes.

24 Q. And that's an incident of diversion,  
25 isn't it, or an example of diversion?

1           A.       That's an example of trafficking in  
2       drugs.

3           Q.       Right. And would you agree, sir,  
4       that the more drugs that are dispensed, the more  
5       likely -- the higher the risk of diversion?

6                   MR. BARNES: Object to form.

7           A.       No, I wouldn't agree to that.

8           Q.       So let's use the example -- let's  
9       use an example of a -- an adult who has  
10       dispensed 60 pills after a surgery and ends up  
11       taking three or four of those pills and  
12       determines that they no longer need them for  
13       pain, post-surgical pain, but leaves those drugs  
14       in his medicine cabinet, accessible to  
15       teenage -- to his teenage children.

16                   Have you ever heard of that  
17       happening?

18           A.       Yeah, I've heard of that happening.

19           Q.       Okay. And is that a form of  
20       diversion?

21           A.       That's a form of theft of drugs.

22           Q.       Is that the result of  
23       over-dispensing of medication?

24           A.       No.

25           Q.       Okay. Let's go on to the next

1 slide, slide 23. So here the Ohio State Board  
2 of Pharmacy says that there's family influence  
3 associated with kids and drugs, that 40  
4 percent -- 42 percent of teens who abuse  
5 prescription drugs report getting them from  
6 their relatives.

7 Did you know that or do you agree  
8 with it?

9 A. Getting them, what's that define?  
10 Does that mean they gave it to them, they stole  
11 it from them, they mis- -- they lost them? I  
12 don't know. I can't agree to that.

13 Q. Do you agree with the statement that  
14 about 1 in 14 say their parents don't care as  
15 much if they catch them abusing prescription  
16 drugs rather than illegal drugs?

17 A. No, I don't agree to that because I  
18 know what I taught my daughter and that's not  
19 true.

20 Q. All right. Do you agree that 27  
21 percent of teens and 16 percent of parents say  
22 abusing prescription drugs is safer than abusing  
23 street drugs?

24 A. No, I don't agree with that either.

25 Q. Let's go on to then page 53 of this

1 slide presentation. Now, this is a chart from  
2 the Ohio State Board of Pharmacy of patients  
3 receiving prescriptions for opioids in the state  
4 of Ohio. Do you see the numbers, 2 million  
5 starting in 2007 and then going up to over 3  
6 million in 2012?

7 A. I see that graph.

8 Q. Now, Overholt's -- the shutdown of  
9 the Overholt's Pharmacy that occurred as a  
10 result of your investigation and the subsequent  
11 indictments, when did that occur?

12 A. I don't know exactly when you're  
13 talking occurred. It began in approximately  
14 March of 2008, to the best of my knowledge, and  
15 concluded with the conviction of the three  
16 pharmacists just prior to my retirement on  
17 March 1st of 2012.

18 Q. My question was, when, in your  
19 opinion, did the -- was the dispensing -- the  
20 large dispensing of drugs -- when did that end  
21 in terms of this pharmacy?

22 A. It pretty much ended when I went  
23 into the pharmacy and did the inspection and  
24 made them aware that I'm looking at everything.

25 Q. And what year was that?

1           A.       2008.

2           Q.       And with respect to the Dr. Franklin  
3     investigation, when did -- when did he stop  
4     prescribing these large quantities of opioids as  
5     a result of your investigation?

6           A.       When I went in his office with the  
7     search warrant, I believe. That was pretty  
8     much the end of his career.

9           Q.       And what year was that?

10          A.       That was, I believe, in 2008, but  
11     don't hold me to it. 2008.

12          Q.       Now, with respect to the internet  
13     store, you talked about that you investigated  
14     and I think shut down in 2006 where you talked  
15     about 1.25 million doses out of that store.  
16     That was 2006 when that was shut down, right?

17          A.       Approximately, yes, around that  
18     time period.

19          Q.       So these statistics, this graph  
20     showing this amount of -- this number of  
21     patients receiving prescriptions for opioids,  
22     this begins in 2007, long after you've already  
23     shut down this internet store, correct?

24          A.       Well, what you missed was the  
25     internet pharmacy was not an opiate dispensing

1 pharmacy. Those were legend prescription  
2 drugs. Legend prescription drugs are drugs  
3 required by prescription, but they do not fall  
4 into Schedule II, III, IV or V category. The  
5 internet pharmacy was no prescription  
6 controlled substances.

7 Q. Fair enough. Thank you for  
8 correcting me. That's very -- I very much  
9 appreciate that.

10 So if we look at these numbers on  
11 this graph, it shows an increasing number of  
12 patients receiving prescriptions for opioids  
13 from 2007 until 2012, right?

14 A. That's what the graph shows.

15 Q. And this internet pharmacy and the  
16 investigation of Overholt's and Dr. Franklin  
17 probably had very little effect on these  
18 numbers, correct?

19 MR. BARNES: Object to form.

20 A. I don't know if it did or not, to  
21 be honest with you. I don't know.

22 Q. And the per capita numbers of doses  
23 per capita in Trumbull County that -- where  
24 we -- that were shown on this map previously,  
25 that was from 2012. Do you remember that?

1           A.       Yeah, I remember what it had on the  
2 map.

3           Q.       Right. So by 2012 these -- this  
4 Dr. Franklin's illegal conduct and that of the  
5 Overholt's Pharmacy had nothing to do with those  
6 per capita numbers, did it?

7           A.       Again, I don't -- I don't know if  
8 they did or not. All I did was my job on that  
9 particular pharmacy and doctor.

10          Q.       All right.

11          A.       I don't know if it affected any of  
12 these statistics.

13          Q.       All right. Let's look at the next  
14 slide. This shows the number of opioid doses  
15 dispensed between 2007 and 2013. It looks like  
16 2007 starts at about 600 million doses  
17 dispensed, to 2013, where it levels off at  
18 800,000 doses.

19                   Have I read that correctly?

20          A.       I agree that that's what it shows.

21          Q.       All right. And go on to the next  
22 slide. This is the number of opioid  
23 prescriptions written starting in 2007, over 11  
24 million, peaking in 2008 at over 12 and a half  
25 million, and then dropping and then increasing

1 again to 12 million in 2012, correct?

2 A. That's what I'm looking at.

3 Q. All during the time frame that you  
4 were working as an agent for the Ohio State  
5 Board of Pharmacy, right?

6 A. I was working from '07 until March  
7 1st of 2012, yes.

8 Q. Right. And so can we agree now,  
9 sir, that the opioid problem was related  
10 directly to the number of opioid prescriptions  
11 written and the opioid pills dispensed?

12 MR. BARNES: Object to form.

13 A. I cannot agree to something that I  
14 didn't compile nor can I agree of all illicit  
15 opiate drugs that were crossing, for example,  
16 the Mexican border and coming into Ohio on top  
17 of this. I can't agree to that.

18 Q. Well, have you heard of the gateway  
19 effect --

20 A. No.

21 Q. -- of -- isn't it true, Agent  
22 Pavlich, that the prescription and the use of  
23 opioid drugs can lead ultimately to the use of  
24 illicit drugs, such as heroin and fentanyl?

25 A. I have heard that, yes.

1 Q. Do you agree with that?

2 MR. BARNES: Object to form.

3 A. Well, I agree if you drink a beer,  
4 it could lead to alcohol -- so I guess that  
5 would be true.

6 Q. So if you -- if you take opioid  
7 prescription drugs, like OxyContin, and become  
8 addicted to them, and then can find a cheaper  
9 source of feeding that addiction, like illicit  
10 drugs, it stands to reason that there is this  
11 gateway effect from opioid prescription drugs to  
12 illicit drugs, true?

13 MR. BARNES: Object to form.

14 Pete, you're trying to turn this  
15 witness into an expert witness. I think you're  
16 wasting a lot of time here going through a  
17 document that postdates his retirement. I  
18 don't know how many times --

19 MR. WEINBERGER: We don't need a  
20 speaking objection. You know that's improper  
21 under our CMO rules regarding depositions.

22 MR. BARNES: Object to form.

23 A. So what are you asking here?

24 Q. Do you agree with the statement that  
25 prescription opioid drugs are a gateway to the

1 use of illicit drugs like fentanyl and heroin?

2 MR. BARNES: Object to form.

3 A. I agree that anything can lead to  
4 something worse, that's what I agree to,  
5 anything. From driving poorly you can get  
6 killed in an auto accident. One thing can lead  
7 to another. But that -- I don't -- I didn't  
8 compile this. I don't agree to this. I don't  
9 have no idea how this was compiled and I have  
10 nothing to do with anything involving what  
11 you're showing me so far, best I can tell you.  
12 You're asking me questions beyond my scope.

13 Q. Agent Pavlich, are you familiar with  
14 the term "trilogy"?

15 A. No.

16 Q. Are you familiar with the  
17 combination of opioids, muscle relaxants and  
18 sleeping pills as enhancing the opioid effects  
19 of opioids?

20 A. I've heard that in my career.

21 Q. Have you ever investigated any  
22 pharmacy or prescriber who was prescribing the  
23 combination of those three classes of drugs?

24 A. I'm sure I have, but I don't recall  
25 any one specific.

1           Q.       Now, this slide presentation -- just  
2       give me one moment here -- has a presentation of  
3       examples of criminal activity at the pharmacy  
4       level, and if you look at slide number 70 -- so  
5       this presentation includes various case studies.  
6       This particular case study is about a pharmacy  
7       technician, Jacob M., who the local police  
8       department contacts the board when they conduct  
9       a traffic stop and find within the suspect's car  
10      prescription bottles with various patient names,  
11      pharmacy documents, Walgreens receipts, and a  
12      blank prescription pad. The prescription pad  
13      comes back to a fictional pain management clinic  
14      with a fake address and a disconnected phone  
15      number. The suspect, a Walgreens pharmacy  
16      technician, tells police that he stole the pad  
17      from a friend's house and used it to fill  
18      fraudulent prescriptions.

19                Next slide. During the suspect's  
20      interview by the board, he admits to the  
21      following: Ordering the blank prescription pad  
22      online using fictitious doctor's information,  
23      entering the doctor into the Walgreens computer  
24      system, filling prescriptions in the name of  
25      patients whose insurance paid full price for

1     them, consuming, trading and gifting the  
2     medications he obtained.

3             Next slide. The investigation  
4     concludes that the suspect diverted 4,460  
5     tablets of oxycodone, OxyContin, hydrocodone,  
6     Carisoprodol and other medications. Due to the  
7     complexity of the crime and the degree of  
8     insurance fraud, he was indicted federally on  
9     13 counts. And you could read the rest of it.

10            Does this case sound familiar to  
11     you?

12            A.     To me, no.

13            Q.     You were not involved in this  
14     investigation?

15            A.     Not that I remember. I never took  
16     a case like this to the federal court. I  
17     wouldn't have found it big enough personally.  
18     I would have indicted this person in Trumbull  
19     County or the county that I was working in.  
20     This never came to my attention, no.

21            Q.     Can we agree, Agent Pavlich, that  
22     the retail pharmacy chains' distribution and  
23     dispensing of pills significantly contributed to  
24     an opioid epidemic in this country?

25            MR. BARNES: Object to form.

1           A.       I can't openly agree to something  
2       that broad, no.

3           Q.       Did the number of opioid pills  
4       dispensed by retail pharmacies increase year to  
5       year from 2000 to 2012 while you were working as  
6       an agent for the Ohio State Board of Pharmacy?

7           A.       I don't know. I never compiled  
8       that particular statistic, so I'm unaware of  
9       the fact of it.

10          Q.       Has the opioid addiction problem  
11       caused serious damages to our communities,  
12       including Trumbull and Lake County?

13                   MR. BARNES: Object to form.

14          A.       I'm sure problems have arisen from  
15       it.

16          Q.       Now, in your role as an agent for  
17       the Board of Pharmacy, have you become generally  
18       familiar with the Controlled Substances Act that  
19       was passed by Congress in 1970?

20          A.       I'm familiar.

21          Q.       And do you agree that it was passed  
22       because of the recognition at that time that  
23       unless the manufacture, distribution and  
24       dispensing of prescription opioids was  
25       controlled, these prescriptions will get

1 diverted into the hands of people who are not  
2 legitimate patients with legitimate medical  
3 needs for opioids?

4 A. I have no idea why they set that  
5 Controlled Substance Act into motion.

6 MR. WEINBERGER: Can we bring up  
7 Plaintiffs' Exhibit Number 1, please?

8 MS. SWIFT: Pete, this is Kate  
9 Swift. Did you share these or are you going to  
10 share these with those of us who are  
11 participating?

12 MR. WEINBERGER: I'm about to share  
13 it on the screen.

14 MS. SWIFT: But beyond just sharing  
15 it on the screen. Can you send us copies?

16 MR. WEINBERGER: Sure. We're  
17 looking for Plaintiffs' Exhibit Number 1.  
18 Whoever is doing the tech for me, if you would  
19 pull that up.

20 THE WITNESS: I see it.

21 MR. APPEL: This is Henry Appel.  
22 Has a copy of the exhibits been provided to me?

23 MR. BARNES: This is Bob Barnes. I  
24 was not provided any copies of any exhibits,  
25 although I was asked to provide copies, that I

1 did provide, including the entire binder to all  
2 counsel. Pete, is there a reason why these  
3 haven't been shared?

4 MR. WEINBERGER: I'll withdraw the  
5 question.

6 Q. If the -- if Congress, at the time  
7 that they passed the Controlled Substances Act,  
8 made a finding that the illegal importation,  
9 manufacture, distribution and possession of  
10 improper use of controlled substances have a  
11 substantial and detrimental effect on the health  
12 and general welfare of the American people,  
13 would you have any reason to disagree with that?

14 MR. BARNES: Object to form.

15 A. I would have no reason to agree  
16 with that.

17 Q. No reason to agree or disagree?

18 A. To disagree.

19 Q. All right. Can we agree that  
20 diversion of opioids leads to opioid misuse and  
21 addiction?

22 MR. BARNES: Object to form.

23 A. Okay, I agree.

24 Q. You've seen that, haven't you?

25 A. I've seen it.

1           Q.       Opioid addiction and diversion of  
2       opioid prescription affects the health and  
3       safety of communities like Lake and Trumbull  
4       Counties, true?

5           A.       To an extent, but I don't know what  
6       extent.

7           Q.       So to prevent diversion, the  
8       Controlled Substances Act imposes obligations on  
9       all distributors and pharmacies to develop  
10      systems to prevent that diversion, true?

11                  MR. MOYLAN:   Objection to form.

12                  MR. BARNES:   Object to form.   Pete,  
13      he already said he has no idea why the  
14      Controlled Substance Act was passed, and so I  
15      don't know why you are trying to get him to say  
16      something after --

17                  MR. WEINBERGER:   Speaking  
18      objections, Mr. Barnes, are not permitted, so  
19      please refrain --

20                  MR. BARNES:   We have a limited  
21      amount of time.   If you're going to -- if the  
22      witness says he has no knowledge of an area,  
23      why would you waste everybody's time?

24                  MR. WEINBERGER:   You are  
25      mischaracterizing his testimony.   Please stop

1 with your speaking objections.

2 MR. BARNES: I'm making an  
3 objection to save time and efficiency here.

4 Q. Are you aware of the fact, Agent  
5 Pavlich, that the Controlled Substances Act  
6 imposes obligations on distributors and  
7 pharmacies to develop systems that prevent  
8 diversion?

9 A. No. Beyond my scope. Beyond my  
10 classification of what I did. I don't know.

11 Q. Fair enough.

12 Do you realize that these retail  
13 pharmacy chains act as both distributors and  
14 dispensers of controlled substances?

15 A. Define distributors.

16 Q. Where they're buying directly from  
17 manufacturers and then distributing to their own  
18 pharmacies, that's what I mean. Do you  
19 understand that?

20 A. Okay. I know pharmacies buy  
21 directly from manufacturers and they distribute  
22 legitimately based on prescriptions. That's  
23 what I know.

24 Q. All right. And are you aware of the  
25 fact that the retail pharmacies who have been

1 sued in this case were both distributors and  
2 dispensers of opioid drugs?

3 A. Well, I know that pharmacies  
4 purchase drugs and they dispense them. That's  
5 all I know.

6 Q. All right. But are you aware of the  
7 fact that, for example, CVS and Walgreens and  
8 Walmart were buying opioid drugs, prescription  
9 drugs, directly from manufacturers as opposed to  
10 going through third-party distributors?

11 A. All I know is they would purchase  
12 from wholesalers. That's all I know.

13 Q. So you weren't aware that they were  
14 buying directly from manufacturers?

15 A. I know that they were purchasing  
16 from wholesalers. I don't know specific  
17 wholesalers off the top of my head. I know  
18 they were purchasing them for dispensing in  
19 their pharmacies.

20 Q. Right. So --

21 A. If they found something illicit, I  
22 would have investigated it.

23 Q. So you've never investigated whether  
24 or not these Defendant retail pharmacies  
25 purchased directly from manufacturers, correct?

1           A.       I mean, they could have. I don't  
2 know.

3           Q.       Are you aware of the obligation of  
4 distributors to set up suspicious order  
5 monitoring systems to monitor the distribution  
6 of drugs from their distribution centers to  
7 their retail pharmacies?

8           A.       No. That was beyond my class.  
9 That would have been out of the office in  
10 Columbus.

11          Q.       So who in the -- at the office in  
12 Columbus would have been in charge of looking at  
13 the distribution conduct of the pharmacies?

14          A.       During my career, probably my  
15 immediate -- or my supervisor in Columbus,  
16 Robert Cole, C-O-L-E.

17          Q.       Robert Cole. Did you ever discuss  
18 with Mr. Cole whether or not the Ohio State  
19 Board of Pharmacy ever investigated the  
20 distribution practices of any of these Defendant  
21 pharmacies?

22          A.       Not to my knowledge did I.

23          Q.       Now, let's talk then about the  
24 obligations of these pharmacies as dispensers.  
25                    You understand that dispensing is

1     what pharmacists do when they fill  
2     prescriptions and sell the prescriptions to  
3     customers?

4             A.     Yes, I understand that aspect.

5             Q.     Do you understand that the  
6     Controlled Substances Act requires that  
7     pharmacies that dispense controlled substances  
8     have an obligation to provide effective controls  
9     and procedures to guard against theft and  
10    diversion?

11            A.     Yes.

12            Q.     Do you agree that the Controlled  
13    Substances Act and the regulations under the  
14    CFR, the Code of Federal Regulations, require  
15    the retail pharmacies to create and maintain  
16    records and data that keeps track of every  
17    prescription opioid?

18            A.     Yes.

19            Q.     Do you understand that that has been  
20    the case ever since 1970, when the Controlled  
21    Substances Act went into existence?

22            A.     I believe it happened before that,  
23    they would keep records.

24            Q.     Right. And so the -- the dispensing  
25    of opioids by these retail pharmacies requires

1     that they create and maintain data and records  
2     regarding every prescription they dispense,  
3     true?

4                     MR. BARNES:   Object to form.

5             A.     I would believe so, yes.

6             Q.     And that is what is required of  
7     every local pharmacy by their -- by the  
8     corporation, or at the corporate level that owns  
9     these pharmacies, correct?

10            A.     Records must be maintained of  
11     controlled substances, yes.

12            Q.     Right.   And these records keep track  
13     of the -- of the name of the opioid dispensed,  
14     true?

15            A.     True.

16            Q.     The dosage?

17            A.     True.

18            Q.     The number of pills dispensed?

19            A.     True.

20            Q.     The prescribing doctor?

21            A.     True.

22            Q.     The patient's name, address, age and  
23     other identifying information?

24            A.     True.

25            Q.     The number of refills?

1           A.       True.

2           Q.       Whether or not the opioids are  
3       prescribed in combination with benzodiazepines  
4       or muscle relaxants?

5           A.       I don't know if they maintain their  
6       records in that order.

7           Q.       Well, a retail pharmacy, who's  
8       keeping track of their dispensing data, should  
9       be able to have data on patients who receive  
10      opioids and combinations of these other drugs,  
11      true?

12          A.       Well, that depends upon the  
13      sophistication of your software system. You  
14      can create during the month of December all  
15      dispensings, but can it sort it out like an  
16      OARRS system? I don't know. I don't work for  
17      a wholesaler.

18          Q.       Well, you have -- well, you don't  
19      work for a retail pharmacy either, right?

20          A.       Or a retail pharmacy should I say.  
21      Sorry.

22          Q.       Now, you did tell us in your direct  
23      examination that when OARRS came into  
24      existence -- I want to use your descriptive  
25      term -- on its face, the OARRS data was an

1 enlightening experience, using your terms,  
2 right?

3 A. Yes, it was.

4 Q. And it was enlightening because you  
5 were able to look at data and sort data through  
6 OARRS that would tell you all sorts of  
7 information about patients and prescribers,  
8 true?

9 MR. BARNES: Object to form.

10 A. True.

11 Q. One of the other things it might  
12 tell you, and you used this example, is whether  
13 or not the patient paid with cash or insurance,  
14 right?

15 A. I don't recall if it listed that.  
16 I can't recall that.

17 Q. But that would be an important part  
18 of data that the retail pharmacies would  
19 probably be keeping, right?

20 A. It would show in a retail pharmacy  
21 profile, but I don't remember it being in the  
22 OARRS profile, best I can answer.

23 Q. Right. But if the retail pharmacy's  
24 dispensing data kept track of it, that would be  
25 a useful piece of information, right?

1           A.       Yeah, to an extent it would be  
2       useful to me, to me.

3           Q.       So between 1987 and 2006, when this  
4       OARRS system came online in the state of Ohio,  
5       did you ever, in the course of your  
6       investigation, ask any of the pharmacies that  
7       you investigated what data they had available to  
8       them or that was stored by their corporate  
9       offices?

10          A.       Never asked that question, no.

11          Q.       But if -- if the kinds of data that  
12       is accumulated and stored in the OARRS system  
13       was also data that was available for a  
14       particular retail pharmacy, both locally and  
15       nationally, that would indicate all sorts of  
16       trends and important information that a  
17       pharmacy -- pharmacist might be able to use to  
18       determine whether or not a particular  
19       prescription was problematic, true?

20                 MS. SWIFT: Object to form.

21          A.       Shorten that question.

22          Q.       Sure.

23                 If, as you have stated, the  
24       pharmacies are accumulating data with every  
25       dispensed prescription, you would have

1 information about the patient history and  
2 opioids, true?

3 A. If I was physically in the  
4 pharmacy, yes.

5 Q. At the corporate level or at the  
6 pharmacy level, if you had the data available  
7 through software and through algorithms created  
8 with that software, you should be able to  
9 identify prescription history of opioids with  
10 respect to a particular patient, right?

11 A. I'd be able to create a patient  
12 profile.

13 Q. You should be able to create a  
14 prescriber profile, right?

15 A. Again, if it had the technical  
16 abilities, yes.

17 Q. Well, haven't you learned over the  
18 years as -- in your position that the pharmacy  
19 business is very much data driven?

20 A. Data?

21 Q. Data driven, yes.

22 A. Define your word for data.

23 Q. That the way in which pharmacies  
24 operate is based, to a large extent, on the data  
25 they accumulate.

1           A.       I don't know.

2           Q.       Well, if -- if dispensing data was  
3 accumulated at the corporate level of, let's  
4 say, CVS or Walgreens, both for all the local  
5 dispensing and for dispensing nationwide, it  
6 would help their pharmacists, for example,  
7 identify bad doctors, wouldn't it?

8                   MS. SWIFT: Object to form,  
9 foundation.

10          A.       I don't think so, but --

11          Q.       You don't think that a data system  
12 of CVS would help identify bad doctors who were  
13 working out of opioid pill mills?

14                   MR. BARNES: Objection to form.

15          A.       Well, when I would walk in a  
16 pharmacy, the computer never talked to me. It  
17 was a pharmacist that talked to me. That's who  
18 I would identify.

19          Q.       Which reminds me of the fact that  
20 when we went through all of the inspection  
21 reports, Agent Pavlich, one of the -- one of the  
22 sections was noting the hardware that was being  
23 utilized. Do you recall that?

24          A.       Yes.

25          Q.       You never investigated what data was

1 available to pharmacists that had been  
2 accumulated at the corporate level from all this  
3 dispensing data, correct?

4 A. No, I never investigated that.

5 Q. But we do know that once OARRS came  
6 into existence, there was a lot of data that was  
7 available and could be used to help pharmacists  
8 determine whether or not a particular  
9 prescription should be flagged or was  
10 problematic, true?

11 A. Yes. OARRS would help in that  
12 respect.

13 Q. Now, the advantage that OARRS has is  
14 that there's data across all the various  
15 pharmacies that are dispensing opioids, true?

16 A. Yes, true.

17 Q. But what I have been engaging -- the  
18 conversation I have been engaging you in up  
19 until now is about the data available to a  
20 particular retail pharmacy chain based upon  
21 their own data. Do you understand that?

22 A. Yeah, I do, but I have no idea what  
23 they compiled at HQ or whatever. I never was  
24 at one of those HQs.

25 Q. You say HQ. You mean headquarters?

1           A.       Yeah, their headquarters where  
2       you're saying all this data was going, I was  
3       never in one of those places, never in my  
4       career.

5           Q.       Right. So your investigation never  
6       included what data might be available at the  
7       headquarters of CVS, Walgreens, Walmart,  
8       Rite-Aid or Giant Eagle, true?

9           A.       Never, never asked to be there and  
10      never was there.

11          Q.       So the fact that, for example,  
12      Mr. Barnes' client, Giant Eagle, had all these  
13      inspections that, for the most part, passed  
14      muster has nothing to do with what data they had  
15      at the corporate level regarding their  
16      dispensing data and what data they might have  
17      supplied to their pharmacist, correct?

18                   MR. BARNES: Object to form.

19          A.       You're losing me here, but all I  
20      know is the individual locations where I issued  
21      an inspection was for the individual location.  
22      What they did with their data, what they did  
23      with their information, I have no idea. I  
24      mean, it could have gone into hyperspace. I  
25      have no idea.

1 MR. APPEL: Sorry to interrupt.  
2 This is Henry. We are about -- had about two  
3 hours since our last break. Would it be  
4 appropriate to take another break now?

5 MR. WEINBERGER: Sure.

6 MALE VOICE: Do you have an idea of  
7 how much more time you have?

8 MR. WEINBERGER: It shouldn't be  
9 too much longer.

10 THE VIDEOGRAPHER: We are going off  
11 the record at 4:58. This marks the end of  
12 media unit number 5.

13 (Recess had.)

14 THE VIDEOGRAPHER: We are back on  
15 the record at 5:12. This marks the beginning  
16 of media unit 6.

17 BY MR. WEINBERGER:

18 Q. Agent Pavlich, going back to OARRS,  
19 which you described is an enlightening  
20 experience in terms of the data and information  
21 it can provide -- that was your description,  
22 correct?

23 A. Yes, enlightening.

24 Q. Yes. So once it came into  
25 existence, the pharmacist can use the data to

1     determine if a prescription is legitimate or  
2     not, true?

3             A.     Not necessarily on that basis  
4     alone.

5             Q.     But it is a --

6             A.     It's a tool.

7             Q.     It's a tool for the pharmacist to  
8     use and then determine whether or not additional  
9     due diligence must be performed on that  
10    prescription, right?

11            A.     Yes. To certain aspects, true.

12            Q.     And one of the ways to perform due  
13    diligence is to contact the doctor and call the  
14    doctor's office to confirm the diagnosis, the  
15    reason for the prescription, and other important  
16    information, true?

17            A.     Yes. Those are some of the  
18    questions.

19            Q.     What other due diligence could be  
20    performed? What other questions could be asked?

21            A.     You could ask the doctor if they're  
22    aware of other doctors prescribing the same  
23    drug, did their records indicate that they  
24    actually authorized, for an example, a  
25    telephone prescription for this particular

1 controlled substance or did someone in their  
2 office illegally telephone this in without  
3 their knowledge. I mean, there's lots of  
4 questions you can ask specific to a  
5 prescription.

6 Q. Right.

7 And you also mentioned that in some  
8 instances pharmacists can call other pharmacies  
9 in the area to determine whether or not a  
10 similar prescription for that same patient has  
11 been filled, right?

12 A. That is true.

13 Q. And that happens, right?

14 A. Yes.

15 Q. You've seen that in your experience,  
16 right?

17 A. Yes.

18 Q. Now, the enlightening experience of  
19 OARRS and the data in OARRS is that you can use  
20 that data to look at the prescribing habits of  
21 the doctor, right?

22 A. Yes.

23 Q. You can look at the patient profile,  
24 right?

25 A. Yes.

1           Q.       Similar to the information that you  
2       get when you're -- when you're performing a DUR,  
3       right?

4           A.       More amplified.

5           Q.       You can determine the distance --  
6       can use the data to determine the distance that  
7       the patient traveled from his home to the  
8       pharmacy?

9           A.       Yes, I believe you can do that.  
10       Yes.

11          Q.       Can you use the data to determine  
12       the distance between the doctor's -- the  
13       prescribing doctor's office and the pharmacy?

14          A.       Well, it would be an approximation.  
15       If the doctor's office is in Cleveland and the  
16       pharmacy is in Trumbull County, I know it's a  
17       long distance. I don't know how many miles,  
18       but I know it's a long distance.

19          Q.       You can determine whether the  
20       patient in the past has paid for opioids with  
21       cash or with the use of insurance?

22          A.       I'm not sure on that, what OARRS --  
23       if it had that data or not. I am not sure on  
24       that.

25          Q.       You can determine the prior history

1 of the patient with respect to dosage strengths  
2 and number of pills of opioids previously  
3 dispensed, true?

4 A. Yes.

5 Q. And you can determine that same  
6 information or prescriber history with respect  
7 to doses, strengths and number of pills  
8 dispensed to that -- by that prescriber to his  
9 or her patients, true?

10 A. Yes.

11 Q. All of this data helps the  
12 pharmacist determine whether additional due  
13 diligence must be performed on a particular  
14 prescription before it's dispensed, true?

15 MS. SWIFT: Object to the form.

16 A. Yes, if they ran an OARRS report.

17 Q. And all of this is then done or  
18 should be done by the pharmacist in order for  
19 the pharmacist to fulfill his or her  
20 corresponding obligation to ensure that the  
21 prescription dispensed is for a legitimate  
22 medical purpose, true?

23 MR. BARNES: Object to form.

24 A. If they have the data in front of  
25 them, true. If they didn't run an OARRS

1 report, they wouldn't know.

2 Q. Right.

3 Have you done any investigation of  
4 any of the retail pharmacies regarding what  
5 written policies they have that governs the  
6 conduct of their pharmacists who dispense  
7 opioids?

8 A. I would say no. All I know is they  
9 have -- every pharmacy had a law book in their  
10 library, which are the drug laws of the State  
11 of Ohio, and they were to comply with those  
12 drug laws.

13 Q. And if the pharmacist had written  
14 policies that defined what red flags they should  
15 be -- that the pharmacist should be looking at  
16 from their own internal compilation of  
17 dispensing data, you have no knowledge of that,  
18 correct?

19 A. No, I had no knowledge of their  
20 internal memos or documents. None that I  
21 recall.

22 Q. And your investigations never  
23 revealed any of those policies to you, did they?

24 A. No. I would say it had not.

25 Q. And your -- just like your

1 investigations never revealed what data systems  
2 the pharmacies had to keep track of their  
3 dispensing data and to run algorithms on that  
4 data, correct?

5 A. My inspections would show what  
6 software they had in the pharmacy. Beyond that  
7 extent, I just documented what software they  
8 had. I -- I'm computer dumb.

9 Q. But what information in terms of  
10 data analysis that software provided, you would  
11 have no idea, correct?

12 A. Yeah. Correct.

13 MR. WEINBERGER: All right, sir.  
14 Those are all the questions I have. Thanks for  
15 your time.

16 EXAMINATION OF GEORGE P. PAVLICH  
17 BY MS. SWIFT:

18 Q. Thank you very much for your time  
19 today and I'll try to keep it as short as  
20 possible. My name is Kate Swift and I am going  
21 to ask you questions principally about Walgreens  
22 this afternoon.

23 First I'd like to ask you some  
24 questions about the inspections you performed  
25 when you were at the Board of Pharmacy. Is one

1 of the purposes of those inspections to ensure  
2 that a pharmacy is complying with the rules  
3 around dispensing prescription medications like  
4 opioids?

5 A. Yes.

6 Q. Is one of the purposes of the  
7 inspections that you performed for the Board of  
8 Pharmacy to ensure that a pharmacy is complying  
9 with the rules around preventing theft and  
10 diversion?

11 A. Yes.

12 Q. And I think you testified about this  
13 earlier, but do you understand diversion to mean  
14 the movement of prescription medications like  
15 opioids from legitimate channels to illegitimate  
16 channels or illicit channels?

17 A. I agree, yes.

18 Q. You testified a number of times  
19 today that you tried to be very thorough in your  
20 inspections, right, sir?

21 A. Yes.

22 Q. I believe I heard you say at one  
23 point this morning that you consider yourself to  
24 be aggressive or you did when you were  
25 inspecting pharmacies for the Board of Pharmacy;

1 is that fair?

2 A. I was very aggressive.

3 Q. You were aggressive in making sure  
4 that you did thorough inspections to determine  
5 whether a pharmacy was in compliance with the  
6 Board of Pharmacy's rules and regulations?

7 A. Yes. No matter chain or  
8 independent, I treated them all equal.

9 Q. When you conducted inspections for  
10 the Ohio Board of Pharmacy, did you make sure to  
11 review whatever you needed to review in order to  
12 give yourself comfort that that pharmacy was  
13 complying with the Ohio Board of Pharmacy's  
14 rules and regulations?

15 A. I always tried to be thorough and  
16 document anything that I found was not  
17 legitimate.

18 Q. If there was something that you  
19 wanted to review and you couldn't for whatever  
20 reason, did you document that as well?

21 A. I don't know what I couldn't  
22 review. If I asked a pharmacist to produce  
23 something, they always -- at least in the  
24 majority of everything that I requested I got.

25 Q. I believe I heard you testify that

1     you never had occasion to ask a pharmacy's  
2     headquarters for data that it might be  
3     analyzing; is that right?

4             A.     Yes. I never -- I mean, I'm not,  
5     you know, on the life on my child saying I  
6     never did that, but I'm telling you I don't  
7     recall any time I communicated directly with  
8     corporate.

9             Q.     When you found evidence of diversion  
10    going on at a pharmacy, you definitely made note  
11    of that in your inspection reports, correct?

12            A.     I made note of that and would  
13    thoroughly investigate it in multiple ways.

14            Q.     And you might even start a  
15    prosecution-type investigation. You testified  
16    about that with respect to Mr. Overholt's  
17    pharmacy, right?

18            A.     Yes. I would conduct an  
19    inspection. If I found multiple illicit  
20    prescriptions, for an example, I would question  
21    the pharmacist who's present or pharmacists  
22    that are present, and if I determined at that  
23    point I needed to conduct an investigation, I  
24    would call Columbus, get a case number,  
25    document it, and proceed. And if it resulted

1 in something criminal, I would take it to the  
2 prosecutor for that specific county, most of  
3 the times at the common pleas court but I had  
4 taken cases to federal court.

5 Q. Would you agree with me, sir, that  
6 it's very important for agents like yourself to  
7 do those things when they find evidence of  
8 diversion at a pharmacy, that's important for  
9 protecting the public safety?

10 A. Absolutely.

11 Q. If you found anything amiss with  
12 respect to the way a pharmacy was maintaining or  
13 using its data, would you have made note of  
14 that?

15 A. Oh, yeah, I would have made note of  
16 it.

17 Q. And you testified at length about  
18 Mr. Overholt's pharmacy in particular and the  
19 fact that that pharmacy was not maintaining  
20 controls against diversion, right?

21 A. Absolutely they were not.

22 Q. And you did something about it,  
23 right? You weren't going to stand by and let  
24 that happen, fair?

25 A. No. I was immediately on top of

1 it.

2 Q. I believe I heard you say that you  
3 trained a number of the agents at the Board of  
4 Pharmacy. Do I have that right?

5 A. I trained every new agent at the  
6 Board of Pharmacy after 1987, including a  
7 couple of specialists, not to the practice of  
8 pharmacy but to investigative technique.

9 Q. Understood. And did you train those  
10 agents and specialists to be as aggressive and  
11 thorough in their inspections as you were in  
12 yours?

13 A. Not everybody listened to me and  
14 used my aggressive technique. Some had  
15 different types of personalities than me. And  
16 some just weren't as capable. Not that I was a  
17 superstar, but some just weren't as capable to  
18 do large-scope investigations.

19 Q. Do you believe that, by and large,  
20 the agents and specialists who conduct  
21 inspections of pharmacies for the Ohio Board of  
22 Pharmacy take the job seriously?

23 A. Not as seriously as I did, all of  
24 them. Some, but not all.

25 Q. All right. Let's talk about a

1 particular inspection. I'm going to show you  
2 what should be in -- you've got the envelopes,  
3 right?

4 A. Oh, the envelopes, yes.

5 Q. A through L.

6 A. Which one?

7 Q. We're going to start with the letter  
8 A and I will introduce it using the Exhibit  
9 Share software.

10 MS. SWIFT: Renee, can I trouble  
11 you to tell me where we are with the exhibits,  
12 if you know?

13 THE COURT REPORTER: I don't know.  
14 I would have to just go on Exhibit Share.

15 (Discussion had off the record.)

16 MR. THOMAS: Kate, I believe the  
17 last exhibit from the Edwards deposition, they  
18 just added them to the end, and I believe the  
19 last number was 55.

20 MS. SWIFT: Well, how about if I  
21 start with 56? And I'm going to introduce --  
22 let's see if I can add. Everybody should get a  
23 copy of that that they could look at.

24 MR. THOMAS: And remember to please  
25 refresh your Exhibit Share so the exhibit shows

1 up in the marked exhibit folder.

2 MS. SWIFT: Thank you. I will. I  
3 appreciate that.

4 - - - - -

5 (Thereupon, Deposition Exhibit 56,  
6 Walgreens Pharmacy Inspection  
7 Reports Beginning Bates Stamp  
8 BOP\_MDL1801987, was marked for  
9 purposes of identification.)

10 - - - - -

11 Q. And, Mr. Pavlich, you are welcome to  
12 open, yes, that envelope that has the A on it,  
13 and that will be Exhibit 56 for the record.

14 Sir, would you agree with me that  
15 Exhibit 56 is a set of inspection reports for a  
16 Walgreens pharmacy on West Market Street in  
17 Warren, Ohio?

18 A. Yes. It looks like 804 West Market  
19 Street.

20 Q. And several of these are your  
21 inspection reports, correct, sir?

22 A. Let's see if they're all mine.  
23 They're not all mine. I have a distinct G and  
24 then Pavlich. Toward the end they're not.

25 Q. But the first several reports are

1 your inspection reports?

2 A. Yes, the first several. Yes.

3 Q. You mentioned a couple of times  
4 today that your inspection reports followed a  
5 standard format. And is that the format that we  
6 see in Exhibit 56?

7 A. Let's see.

8 Q. In particular, I'm talking about the  
9 list of 37 items along the left-hand side of the  
10 page.

11 A. Yeah, I see the items. This  
12 particular inspection, I was only there a half  
13 hour. They had a barricade. That's why. I  
14 was just looking at their barricade. So this  
15 first inspection was primarily just for their  
16 barricade. This might have been --

17 Q. I think it was a new store.

18 A. Yeah, it was a brand-new store.  
19 I'm looking at it here trying to figure this  
20 out, why I was only there a half hour. That's  
21 why.

22 Q. And we'll get to the details of the  
23 specific reports in a minute, but first I'd like  
24 to ask you just about the format of the reports,  
25 so not the actual specific content.

1                   You can see that each of these has  
2                   information about the store, such as the  
3                   address and phone number, at the top of each  
4                   page.

5                   Do you see that?

6                   A.       Yes.

7                   Q.       And that was a standard for your  
8                   inspection reports?

9                   A.       Yes. In the far left, yes.

10                  Q.       And then they also -- the form  
11                  includes a spot to note the responsible person  
12                  at the pharmacy.

13                  Do you see that?

14                  A.       Well, it had responsible person.  
15                  That would be the one that signed for the  
16                  terminal distributor license for that location,  
17                  and then if there was another pharmacist  
18                  working there, in this particular case it's a  
19                  supervisor who was there. This thing wasn't  
20                  even -- it was hollow inside. I just came to  
21                  see specifically how they were going to do what  
22                  they were going to do.

23                  Q.       And there's room for additional  
24                  personnel to be noted below the name and address  
25                  of the pharmacy. That's all standard?

1 A. Right, standard.

2 Q. Then focusing on the list of 37  
3 items on the left-hand side of the page, is that  
4 a list of the things the inspector is supposed  
5 to address during the inspection?

6 A. It's a guide.

7 Q. If you would, please, sir, are there  
8 items in that list that relate to theft or  
9 diversion, and if so, can you identify them?

10 A. Theft or diversion? Well, security  
11 would fall into the possibility of theft or  
12 diversion. Improper dispensing would fall into  
13 that category, illegal sales, illegal  
14 purchases, improper Rx's, DEA inventory. That  
15 pretty much covers it.

16 Q. You see number 10 in the list,  
17 accountability?

18 A. Yeah, accountability would also be  
19 part of what I would document.

20 Q. What does that mean, accountability,  
21 in this context?

22 A. Accountability is are the  
23 pharmacists maintaining records for -- if you  
24 purchased a thousand tablets of oxycodone, you  
25 have records to indicate that you dispensed 500

1 and there's 500 in stock. That would be  
2 accountability. That would be what I would  
3 call a true level of accountability, a zero  
4 balance inventory.

5 Q. Does accountability also relate to  
6 just standard recordkeeping, not necessarily  
7 inventory and making sure you've got as much as  
8 you're supposed to have, but just keeping  
9 records?

10 A. Yes.

11 Q. Then if you look at number 11 and  
12 number 20 on the list, 11 is improper dispensing  
13 and 20 is improper Rx's. What is the difference  
14 between those two?

15 A. Well, improper dispensing would be  
16 the pharmacist dispensed a medication and they  
17 shouldn't have. They dispensed -- there was 30  
18 tablets prescribed and they dispensed 90. That  
19 would be improper. And improper Rx's would be  
20 they received a prescription from not a  
21 legitimate doctor, like a dentist writing diet  
22 drugs. That would be an improper Rx. So  
23 there's a distinction between the two.

24 Q. And number 15 is illegal sales.  
25 What does that mean in this context?

1           A.       Let me think about that. It would  
2       probably be they sold drugs, let's say, from  
3       one pharmacy to another pharmacy without a  
4       proper paper trail. The pharmacy across the  
5       street has a patient that needs something,  
6       Fioricet tablets, and they're short, and they  
7       call over to his buddy across the street and  
8       says, Can you give me a hundred tablets of this  
9       drug, and they said sure, and they give it to a  
10      tech and she brings it across the street.  
11      Well, if there's no paperwork, then it's an  
12      improper procedure.

13           Q.       Got it. That's helpful.  
14                    Is something like you just  
15      described, where one pharmacy sells a  
16      particular medication to another pharmacy, is  
17      that proper under certain circumstances, like  
18      if there is a proper paper trail?

19           A.       Well, if there's a proper paper  
20      trail, one terminal distributor can  
21      distribute -- can sell to another.

22           Q.       Got it. All right.  
23                    Take a look, if you would, please,  
24      at number 37 on the list, which says,  
25      "Counseling." What does that mean?

1           A.       37, counseling. Oh, are they  
2 asking the patient do you have any questions of  
3 the pharmacist. Is the pharmacist counseling  
4 the patient while I'm in the pharmacy and the  
5 patient says if I take this drug and this drug,  
6 what will happen, and the pharmacist counsels  
7 them. That's what that is.

8           Q.       I noticed, in looking through the  
9 reports that you conducted on the Walgreens  
10 pharmacies, that this list of 37 changed over  
11 time, it got longer. Is that consistent with  
12 your recollection?

13          A.       No. I didn't remember that. Oh,  
14 it did get longer.

15          Q.       Yeah. Take a look, if you would, at  
16 -- there's a report in here dated March 29th,  
17 2010.

18          A.       Yeah, I see it.

19          Q.       So the first one we looked at was in  
20 the year 2000, so then this one, March 29th,  
21 2010, is about ten years later, and you can see  
22 there are now 40 items on the list, right?

23          A.       I never noticed that. That's news  
24 to me.

25          Q.       Well, let's look at -- I'd like to

1 ask you about the things that got added. I  
2 think it's more or less the same, though you can  
3 take a look for yourself. You don't have to  
4 take my word for it. So up until 37, and then  
5 38, 39, 40 are -- PSE sales is 38, OARRS is 39,  
6 and confidentiality is 40, correct?

7 A. That's what it says.

8 Q. What is the reference to PSE sales,  
9 if you know? What does that mean?

10 A. I must have missed that class  
11 because I have no idea what that is. I'm  
12 trying to think, PSE. I have no idea.

13 Q. If I say pseudoephedrine, does that  
14 jog your memory?

15 A. It could be.

16 Q. But you don't know?

17 A. I'm guessing. I'm taking your word  
18 for it.

19 Q. We've talked a bit about OARRS  
20 today, but in this context, meaning when OARRS  
21 appears in this list of items on the left-hand  
22 side of an inspection report form, what does  
23 that mean?

24 A. That probably means they're  
25 utilizing OARRS in their dispensing practice.

1           Q.       And then number 40, confidentiality,  
2       what does that mean in this context of the Board  
3       of Pharmacy inspection report form?

4           A.       I have no idea why they put that in  
5       there. Confidentiality would be -- to my -- to  
6       my feeling, would fall under security, you  
7       know, but -- you know, everything is secure and  
8       confidential, but I don't know. I don't recall  
9       ever documenting this, or did I. I don't know.  
10      I don't think so. Listen, I must have been  
11      sleeping. I'm telling you. I missed this.

12          Q.       Then underneath the list there's a  
13      check box and you can see sometimes it's checked  
14      and sometimes it's not, and the check box is  
15      next to something that says, "Pink sheet issued  
16      for numbers." And is it -- am I intuiting  
17      correctly that if the box is checked, that means  
18      the inspector has found an issue during the  
19      inspection?

20          A.       Yeah. That's a written -- what we  
21      called a written notice of compliance that  
22      needed to be addressed and written in a reply  
23      to the Ohio State Board of Pharmacy as to a  
24      corrective procedure. So it would be X'd, and  
25      then what specifically I wanted to bring to

1     their attention, I would put number 11,  
2     improper dispensing, and 28, Rx initial and  
3     date. So that's what that is.

4             Q.     And you answered my next question,  
5     which was when that check box refers to a pink  
6     sheet being issued for numbers, what that means  
7     is an issue with one of the 1 through 37 or 1  
8     through 40 itemized issues there; is that right?

9             A.     Yes, specific to whatever I circled  
10    or numbered, I'm bringing their attention to  
11    it.

12            Q.     And you can see with respect to this  
13    report in March of 2010, there's a check box --  
14    the check box is marked for numbers 11 and 28,  
15    and the 11 appears to refer to improper  
16    dispensing?

17            A.     Yeah.

18            Q.     And I think if you follow along  
19    through, 28 refers to initial and date, as you  
20    can see on the next page?

21            A.     Right.

22            Q.     That's all very helpful.

23                    If the box next to the pink sheet  
24    notation is not checked, does that mean that  
25    you didn't find any issues in the course of the

1 inspection that were --

2 A. It meant that I found no issues  
3 that I wanted a written reply on. Now, I might  
4 have found some issues that I would bring to  
5 the attention of the pharmacist in the course  
6 of my inspection, whether orally or in writing,  
7 but not everything that I would find I would  
8 document. You know, if I -- I don't know. If  
9 I would find something -- if I had a pharmacist  
10 that I thought was really doing a good job, and  
11 I could tell usually within the first half an  
12 hour -- if I got a pharmacist that's doing a  
13 good job, I would orally tell them something to  
14 correct or whatever and put it in writing.  
15 Pink sheet -- you got to understand,  
16 pharmacists, you know, they took some of the  
17 time these things personal, and if I didn't  
18 think it needed to be documented in a written  
19 reply, I did not do it.

20 Q. Is it fair to say that if there was  
21 no check mark next to the -- strike that.

22 If you decided not to issue a pink  
23 sheet, meaning there was no -- the box was not  
24 checked, did that generally mean that the  
25 pharmacy -- you had determined the pharmacy was

1 in compliance with the rules and regulations?

2 A. Yes.

3 Q. Okay. Then just to finish out the  
4 format of these reports, there's a large amount  
5 of lined space kind of in the middle of the  
6 page, and that's where you documented your  
7 findings as you went through the inspection?

8 A. Yes.

9 Q. And then there's a signature line at  
10 the bottom, one for the signature of person in  
11 charge. Is that a signature for somebody who  
12 works at the pharmacy?

13 A. That's a signature for only a  
14 pharmacist.

15 Q. Then there's a signature of  
16 inspector. And for many of these that's you,  
17 correct?

18 A. That's me.

19 Q. I believe you testified earlier  
20 today that the handwriting we see on these  
21 reports is yours; is that right?

22 A. On this one but not the next one  
23 (indicating).

24 Q. The ones that you signed, is that  
25 typically your handwriting?

1           A.       These are mine. Distinctive G  
2       P-A-V-L-I-C-H, that was mine.

3           Q.       Is this the format that you used to  
4       conduct inspections throughout the time that you  
5       were an agent for the Board of Pharmacy?

6           A.       Yes. Some more extensive than  
7       others, some less documentation, sometimes more  
8       documentation. All depends how much time I had  
9       on my hands, for one thing, and how much  
10      problem I saw. I mean, sometimes I would go  
11      into a pharmacy and I just was very impressed  
12      most of the time, most of the time. And I was  
13      thorough, but I was -- I could be thorough in  
14      an hour in some pharmacies. In some I would  
15      like to spend a weekend with them.

16          Q.       Did you -- when you were completing  
17      these inspection reports, did you do it while  
18      you were at the pharmacy?

19          A.       Oh, always, yes.

20          Q.       Did you have a clipboard so that you  
21      could stand there and literally fill it out  
22      while you were there with the pharmacist?

23          A.       Well, I didn't carry a clipboard  
24      and 14 pens in my pocket. I just kind of put  
25      the sheet down and I would go and -- like the

1 first one, licensing, see if they had their  
2 licensing on the wall and if they had their  
3 personal ID there or on their person, and then  
4 I would go, you know, sometimes down the line,  
5 sometimes jumping here or there. You know, it  
6 all depends. I used to have a good feel for  
7 the pharmacy. You know, it's like when I was a  
8 policeman, you walked in very nice-looking  
9 houses and you walked in very bad-looking  
10 houses, so, you know --

11 Q. Okay. Now I'd like you to please  
12 turn back to the very beginning of Exhibit 56,  
13 this document we've been looking at, and I want  
14 to ask you some questions about the reports that  
15 you did for this Walgreens pharmacy in Warren,  
16 Ohio.

17 This Walgreens on West Market  
18 Street is in Trumbull County, correct, sir?

19 A. Yes, it is.

20 Q. On this first one we see the name of  
21 Scott W. Weamer under the responsible person?

22 A. Yes, I know him, and I don't  
23 know -- I don't recall the supervisor, but I  
24 know the pharmacist that signed this. This was  
25 Paul McEvey.

1           Q.       What do you -- what did you think of  
2       Mr. Weamer, the responsible pharmacist?

3           A.       A very capable pharmacist. He  
4       later on became a policeman. And he had a wife  
5       that was a pharmacist. Paul McEvey -- again, I  
6       don't remember the supervisor, but Paul McEvey,  
7       another very capable, good pharmacist.

8           Q.       And Mr. Weamer and Mr. McEvey, the  
9       two Walgreens pharmacists listed in this report  
10      in Exhibit 56, it sounds like you had a good  
11      working relationship with them; is that true?

12          A.       Yes.

13          Q.       Did they provide you tips on bad  
14      doctors, forged prescriptions, patients who  
15      might have been diverting their prescription  
16      medications?

17          A.       I believe they had. I can't  
18      remember specific cases, but they were good  
19      pharmacists, yes.

20          Q.       And one more question about just the  
21      standard format on these inspection reports.  
22      You testified a minute ago that if the box is  
23      not checked at the bottom of the page for the  
24      pink sheet, that that tends to mean the pharmacy  
25      is in compliance, based on your inspection, with

1 the rules and regulations?

2 A. Yes.

3 Q. Does it also mean that you didn't  
4 find any evidence of theft or diversion at that  
5 pharmacy during that inspection?

6 A. That is true. What it means in a  
7 nutshell is during my inspection I found  
8 nothing that I would account for that would  
9 require a written reply, but it does not mean  
10 that there is no diversion or theft in that  
11 pharmacy because I did not do an audit. And an  
12 audit -- the only way I would know if there was  
13 non-accountability is doing a beginning audit  
14 and an ending audit and getting the in-between.  
15 So an inspection is good, it gives you a  
16 snapshot, but it's not a motion picture film,  
17 in other words.

18 Q. Were there times when the Board of  
19 Pharmacy would require an audit like you just  
20 described?

21 A. It's not that they would require  
22 it. It would be I would require it if I  
23 found -- well, let's just say that Paul McEvey  
24 said -- calls me up and says, "George, I just  
25 bought five 500-tablet bottles of oxycodone and

1     they were put on the shelf and I have four, and  
2     I know I didn't dispense that." Well, that  
3     would result in an audit.

4             Q.     Is that the kind of thing that the  
5     Walgreens pharmacists would do if they could not  
6     account for one of their bottles of oxycodone,  
7     they would give you a call?

8             A.     Well, they would -- an individual  
9     pharmacist would call me sometimes about bad  
10    prescriptions and things and they would call me  
11    about something like that and/or they had an  
12    excellent -- I don't know the supervisor, but  
13    Brian Joyce was their supervisor and he was  
14    excellent. He called me on everything and  
15    never interfered. I mean, he was right on  
16    board. He was an independent pharmacist, at  
17    one time had his own store, and then he started  
18    working for Walgreens as a staff pharmacist and  
19    then became a supervisor. And he was  
20    excellent.

21            Q.     Got it. All right. Take a look at  
22    the second page of Exhibit 56, which is -- it  
23    appears to be -- you'll have to tell me if I've  
24    got this right -- a full inspection for the  
25    store when it was first opened; is that correct?

1           A.       Wait a minute. All right. Yeah,  
2       the first one, there was nothing there. I  
3       think I got a phone call in to see where they  
4       were going to put the pharmacy and if it looked  
5       like it was going to be okay inside during  
6       construction because I put under construction.  
7       Now, this one, this is the follow-up, because I  
8       gave them the inspection -- I think the  
9       license. Yeah, I would have gave them the  
10      license and the inspection, the first one, and  
11      this is the follow-up after it was built and  
12      ready to roll, so, yeah, a month later.

13           Q.       And you can see where it says under  
14      "Personnel" towards the top of the page, "Full  
15      inspection, new store"?

16           A.       Yeah, and that "F" up there, I must  
17      have done that.

18           Q.       You made a note in the first page of  
19      this inspection report, which is dated March  
20      13th, 2000 -- there's a note about a metal track  
21      not able to slide. I should have you read  
22      because it's your handwriting, not mine.

23           A.       "The barricade consists of three  
24      metal draw-down curtains. The curtains are  
25      secured from within the pharmacy. Note: One

1 metal track is not able to slide lock into the  
2 framework." Oh, yeah, I remember this. "The  
3 wrong track was affixed in the window. It  
4 appears that the tracks were misinstalled by  
5 the contractor." Okay. Yeah. It wasn't -- it  
6 wasn't going to be within compliance of  
7 security that -- when I did a barricade  
8 inspection, I mean, I pulled on the barricade  
9 to see if it pulled out from the wall. I  
10 checked the tracks to make sure everything  
11 locked secure and I found the problem there.

12 Q. And then you can see, if you flip  
13 ahead a few pages to the page with the number  
14 ending 1994, there's a note at the bottom of  
15 your prescription room barricade inspection  
16 report that you advised Pharmacist Weamer to  
17 correct this concern immediately with respect to  
18 the --

19 A. Yeah. As a matter of fact, I  
20 thought -- I thought -- if I remember this  
21 correctly, I thought they had someone arrive at  
22 the store while I was there. They were going  
23 to correct it. So I -- I don't believe I  
24 issued a pink sheet.

25 Q. It doesn't appear that you did.

1 A. No, I did not.

2 Q. The box isn't checked.

3 A. And I think that's because they had  
4 someone come into the store -- I remember  
5 this -- and they were going to correct it, but  
6 I still documented what I found when I was  
7 there. They were very good. I mean, I would  
8 say Walgreens was right on top of things.

9 Q. Walgreens was right on top of things  
10 as a general matter; is that right?

11 A. Walgreens was on top of things in  
12 compliance as far as I'm concerned.

13 Q. All right. Now I want to ask you  
14 some questions about the report that is dated  
15 July 18th, 2002, and it starts right after that  
16 barricade inspection report that we were just  
17 looking at.

18 A. Started right after it?

19 Q. It's the page ending 1995.

20 A. Yeah, I see that, and after the  
21 barricade -- the barricade inspection was  
22 conducted on 3-13-00. This is 7-18-02.

23 Q. Correct.

24 A. We are on the same page. That's  
25 quite a while later.

1           Q.       Yes.    The July 2002 report, it does  
2   have the box checked next to the pink sheet.

3                    Do you see that?

4           A.       Yeah, I see it.

5           Q.       And it looks like the pink sheet was  
6   issued for numbers 3 and 10, correct?

7           A.       Yes, it was.

8           Q.       Number 3 is record system and number  
9   10 is accountability, correct?

10          A.       Yes.

11          Q.       Right.  I want to ask you about what  
12   was going on here.  In your written report it  
13   looks like you had requested prescriber  
14   utilization reports for two prescribers, a  
15   doctor and a dentist.

16                    Do you see that there?

17          A.       I see it, Nalluri and Sabatini.

18          Q.       What is a prescriber utilization  
19   report?

20          A.       It's a computer-generated printout  
21   for a specific prescriber or a specific patient  
22   that would provide me from one time period to  
23   another time period everything they dispensed  
24   out of that pharmacy.

25          Q.       Why would you have requested that

1 from this Walgreens in 2002?

2 A. Because obviously I was looking at  
3 Dr. Nalluri and Dr. Sabatini for something or  
4 another.

5 Q. You were investigating the two  
6 doctors for something; is that right?

7 A. Pretty much, probably true.

8 Q. So you go on to write that this  
9 pharmacy -- and we're still at the Walgreens at  
10 804 West Market Street in Warren, Ohio -- the  
11 pharmacy had not provided the records you  
12 requested.

13 Do you see that?

14 A. Yep, I see it. That was a  
15 different doctor. That was Sherman and  
16 Masters.

17 Q. You make a note further down on the  
18 page about an earlier request that the pharmacy  
19 hadn't responded to with respect to Dr. Sherman  
20 and Dr. Masters; is that right?

21 A. That's true.

22 Q. And in that part of the note you  
23 say, "This is the second time this year that  
24 records were never provided," right?

25 A. That's what I wrote. I don't

1 recall it but that's what I wrote so that's  
2 true.

3 Q. When you were requesting records for  
4 Dr. Sherman and Dr. Masters, was that in  
5 connection with the investigation you testified  
6 about earlier today regarding those two doctors?

7 A. I would say yes.

8 Q. All right. There are -- I'd like  
9 for you to confirm for me that other than the  
10 issue with respect to this Walgreens not  
11 providing these records you requested in a  
12 timely fashion, there are no other issues noted  
13 in this particular inspection report?

14 A. No. No. I -- I was probably a  
15 little ticked off --

16 Q. I wondered.

17 A. -- to say the least, because not  
18 only did -- if you notice, not only did I write  
19 number 3 and number 10, but I highlighted "Pink  
20 sheet issued for number." There's a highlight  
21 there.

22 Q. You also capitalized some of the  
23 words, which I took to be for emphasis.

24 A. Yeah. I could tell by my -- what I  
25 wrote here that I had an issue.

1 Q. And that is --

2 A. I knew Kathleen Mongine. She was  
3 another good pharmacist. But, you know, things  
4 get lost in a pharmacy, things get misplaced,  
5 people forget, I forget, but when it's the  
6 second time they did it, I really brought it to  
7 their attention.

8 Q. And then if you'll turn a couple of  
9 pages further in to the page ending 1999,  
10 there's a letter from a Walgreens pharmacy  
11 supervisor named Julie Bickers.

12 Do you see that?

13 A. I see it.

14 Q. Did you know Ms. Bickers?

15 A. No, I don't know. This looks like  
16 it's out of Cleveland. I don't know her.

17 Q. She writes in this letter to the  
18 Ohio Board of Pharmacy that she is responding to  
19 the inspection report by you, Mr. George  
20 Pavlich, correct?

21 A. That's what she's saying, yes.

22 Q. And then in the second paragraph she  
23 says, "The cause of the delay in obtaining  
24 records for the agent has been rectified, the  
25 agent has been informed of the corrective

1 action, and a system for preventing future  
2 delays has been put into place both at the local  
3 and the corporate level," correct?

4 A. That's what it says.

5 Q. This letter is dated July 25th,  
6 2002, correct?

7 A. Yes.

8 Q. That's just about a week after the  
9 date of the inspection report itself?

10 A. Stand by.

11 Go ahead.

12 Q. The letter from Ms. Bickers is dated  
13 just about a week after the date on your  
14 inspection report, correct?

15 A. Yeah. They have, I think, ten days  
16 to reply.

17 Q. Would you agree with me,  
18 Mr. Pavlich, that --

19 A. 20 days. 20 days they have.

20 Q. So Walgreens responded much more  
21 quickly than they were even required?

22 A. They were lightning fast.

23 Q. Would you agree with me that this  
24 Walgreens also addressed your concerns as  
25 quickly as they presumably could?

1           A.       That's what they are so noting in  
2       this document. I don't recall this  
3       specifically, but yes, very fast reply.

4           Q.       If the issue with not providing  
5       records when you had asked for them had  
6       continued, would you have continued to document  
7       it?

8           A.       Yes. This would have been a step  
9       up, more aggressive.

10          Q.       Then turn to the next page.

11          A.       There's a problem here type of  
12       issue.

13          Q.       If you turn to the next page, the  
14       next report is dated August 9th, 2006.

15          A.       Okay.

16          Q.       And I see Mr. Joyce is listed on  
17       this one. Do you see his name as the  
18       responsible person?

19          A.       Yes. He was a staff pharmacist  
20       then and he was the responsible person so he  
21       signed for the license.

22          Q.       And then I see Kathleen -- is it  
23       Mongine?

24          A.       Mongine.

25          Q.       Do you know either of the other two

1 people who are listed above Ms. Mongine's name?

2 A. No. One was an intern, and the  
3 other one, odd that I wouldn't remember that  
4 name but I can't recall him.

5 Q. This inspection report from 2006  
6 makes reference to the fact that there was a  
7 drive-up window. Where is that? It's the first  
8 page, about two-thirds of the way down, "The  
9 pharmacy has a two-bay drive-up service window."  
10 Why would you note that in your inspection  
11 report?

12 A. Maybe I never saw one with two  
13 bays. I don't remember back in '06. Maybe I  
14 found it to be unique, a two-bay drive-up  
15 service window. You know, most of the time I  
16 would just see them driving up next to a window  
17 attached right to the building itself. So  
18 maybe that's why I did it. I don't remember.

19 Q. Did you ever have occasion to  
20 observe at pharmacies things about their  
21 location or other aspects of the pharmacy, such  
22 as a drive-up window, that might lead them to  
23 have a higher volume of prescriptions and other  
24 sales? Is that the kind of thing you paid  
25 attention to?

1           A.       No. I don't think -- you know, I  
2       mean, that's a convenience thing. As I recall,  
3       that was strictly for that purpose,  
4       convenience. Pharmacies would rather you walk  
5       in the building and maybe buy something on top  
6       of what you're getting dispensed versus a  
7       two-bay window.

8           Q.       This August 2006 inspection report  
9       of the Walgreens on West Market in Warren also  
10      makes note of an incident complaint at the  
11      bottom of the first page, carrying over to the  
12      second page.

13                   Do you see that?

14          A.       Yeah, I see that.

15          Q.       What is that about?

16          A.       I'm not recalling this.

17          Q.       Can I trouble you, sir, to read into  
18      the record, because I struggle a little bit with  
19      your handwriting?

20          A.       Really? I got straight A's in  
21      handwriting.

22          Q.       It's better than mine.

23          A.       This is my college handwriting. "A  
24      patient" -- I'll read from the beginning here.  
25      I'm sorry. "On this" -- page 1, "On this date

1 an incident complaint was reviewed." Page 2, I  
2 put "on" but it should be "An OSBP case number  
3 20061489, a patient profile on the person  
4 reporting this incident was requested. The RPh  
5 explained that excessive hydrocodone/APAP based  
6 on multiple doctors in the Walgreens and later  
7 discovered Rite-Aid and CVS pharmacies resulted  
8 in them reporting the information to the  
9 prescriber. The RPh corresponding  
10 responsibility with the prescriber was properly  
11 followed and this incident complaint is found  
12 to be unfounded. A written request of the  
13 specific patient profile was provided and  
14 received."

15 You know, I don't recall this.

16 Q. Does it suggest to you that somebody  
17 had complained?

18 A. Yeah.

19 Q. Like maybe a patient had complained  
20 that they weren't getting their prescription  
21 filled?

22 A. You know, that happened a lot. I  
23 would get these patients calling me up saying  
24 this, that or whatever, and, hey, I didn't get  
25 90 tablets, I got 60, you know, or the

1 pharmacist was discourteous to me. I mean, I  
2 know which pharmacists were hotheaded and which  
3 ones were extremely professional, and I  
4 addressed it and concluded it was unfounded.

5 Q. Does it suggest to you that somebody  
6 was complaining that they couldn't get their  
7 opioid prescription filled and they complained  
8 about that?

9 A. It could have been that. It could  
10 have been -- you know -- and if it was,  
11 probably high 90 percentile it was an opiate,  
12 high 90 percentile. The complaint calls that I  
13 would get -- it wasn't just being discourteous,  
14 it was I was short my drugs, it was this, that,  
15 whatever, and when I would go there, I'd look,  
16 most of the time it was a controlled substance.

17 Q. Am I correct that your conclusion in  
18 this instance was that the Walgreens pharmacist  
19 was doing what they were supposed to be doing?

20 A. That was my conclusion.

21 Q. Okay. Let's take a look at the  
22 March 29th, 2010 report again.

23 MR. MOYLAN: Kate, before we go on  
24 to another report, I'm just wondering if you  
25 have a sense of how much more time you'll be

1 using.

2 MS. SWIFT: Half an hour.

3 MR. APPEL: This is Henry. I do  
4 want to just point out that the -- that under  
5 docket 643, page 8, it discusses the time frame  
6 for the redirect, and it is minute for minute.  
7 So, you know, I assume that Plaintiff used 90  
8 minutes. We'll assume that. And it also  
9 indicates that -- on page 7 -- time should be,  
10 you know, divided amongst the parties if  
11 there's any questions. So it may not be a bad  
12 idea to go off the record if you wish to  
13 coordinate with the other Defendants.

14 MS. SWIFT: Well, with respect, as  
15 I tried to explain before Pete Weinberger's  
16 questioning, we saved our questioning, meaning  
17 questioning by Walgreens, Rite-Aid, CVS and any  
18 of the other pharmacies who wanted to ask  
19 questions, in an attempt to streamline things  
20 and as a courtesy both to the witness and to  
21 Plaintiffs' counsel, because we did not know  
22 that Plaintiffs' counsel were going to have any  
23 questions at all. They didn't have any  
24 questions at all on Friday for that board  
25 pharmacy witness. And had I known that someone

1 was going to take that position, we might have  
2 done something differently. I'm trying to  
3 accommodate folks in a way that makes sense.  
4 But it certainly wasn't to waive the remaining  
5 time that we had.

6 MR. APPEL: I appreciate that, and  
7 I actually -- you're, in fact, correct. There  
8 was 34 minutes remaining on the 6:26, there's  
9 six hours and 26 minutes, and so there's 34  
10 minutes remaining. I'm just pointing out that  
11 I'm looking at these rules and, you know -- you  
12 know, the judge has foreseen using this. So,  
13 you know, you might want to coordinate amongst  
14 the defense counsel off the record how much  
15 time each party will get because I think, you  
16 know, you've certainly used at least some of  
17 that 90 minutes.

18 MS. SWIFT: And who is speaking  
19 right now?

20 MR. APPEL: This is Henry Appel  
21 from the AG's office.

22 MS. SWIFT: I'm sorry. I didn't  
23 recognize your voice, Henry.

24 Are you suggesting -- and we can go  
25 off the record in just one second, but are you

1 saying that when we get to seven hours, you're  
2 going to cut us off, or what is your position  
3 on that?

4 MR. APPEL: Oh, no. The order says  
5 that the Plaintiffs would have seven hours --  
6 I'm sorry, the Defendants would have a combined  
7 seven hours, that Plaintiffs would have 90  
8 minutes, and then the -- then your -- the  
9 Defendants would have an additional 90 minutes,  
10 because it's minute for minute of what was used  
11 by the opposing party.

12 MS. SWIFT: Okay. So I think we're  
13 nowhere near the limit.

14 MR. APPEL: Yeah. I'm just saying  
15 you may not hit the limit yet, but if you're  
16 saying you have another half hour, you know, as  
17 a professional courtesy, I'm letting you know  
18 that this is -- you know, we would like to at  
19 least look at this, because the judge has set  
20 it out. I mean, we're already at 6:00. I  
21 mean, you know, if we're -- yeah, this could  
22 easily drag on till 9 or 10:00 otherwise. I  
23 want to have some professional courtesy on  
24 this, but --

25 MS. SWIFT: I understand. What I'm

1     trying to say is I think that Bob Barnes  
2     stopped questioning at someplace well south of  
3     seven hours.

4             MR. BARNES:   Yeah, about five  
5     hours.

6             MS. SWIFT:   That's what I thought.  
7     So I didn't think we were anywhere near bumping  
8     up on that upper limit, but perfectly happy to  
9     see what we can do to streamline things, Henry.  
10    If folks want to go off the record, the group  
11    of us can -- you know, we can circle up and see  
12    what we can do to streamline.

13            MR. APPEL:   Actually -- you know, I  
14    actually may be mistaken.   You're right.   It  
15    might have been 6 hours and 26 minutes total,  
16    including the one hour and 12 minutes.   So I  
17    do -- so there was actually more time.

18            MS. SWIFT:   Okay.   Thank you.   I  
19    appreciate that, Henry.   And I don't mean to --  
20    I wasn't trying to -- well, I guess I was  
21    trying to correct you, but --

22            MR. APPEL:   That's what opposing  
23    counsel is for.   Well, I'm not even opposing  
24    counsel.   I'm representing a witness.

25            MS. SWIFT:   But I really do mean

1 it, that we are happy to take a minute amongst  
2 ourselves and see if we can streamline things.  
3 I'm happy to do that if it gets us out of here  
4 faster.

5 Why don't we go off the record for  
6 five minutes hopefully.

7 THE VIDEOGRAPHER: Going off the  
8 record at 6:13. This marks the end of media  
9 unit number 6.

10 (Recess had.)

11 THE VIDEOGRAPHER: We are back on  
12 the record at 6:27. This marks the beginning  
13 of media unit 7.

14 BY MS. SWIFT:

15 Q. Mr. Pavlich, sitting here today, do  
16 you recall ever having any issues with the  
17 systems Walgreens used to dispense prescription  
18 medication such as opioids?

19 A. No.

20 Q. Do you recall ever having any issues  
21 with the systems that Walgreens used for  
22 maintaining records and data?

23 A. No.

24 Q. You never investigated a Walgreens  
25 pharmacy for violations of Ohio law, correct,

1 sir?

2 A. For Ohio law for what?

3 Q. Violations of Ohio law.

4 A. Well, I investigated -- not that I  
5 recall. I have conducted investigations in  
6 Walgreens for different things, like some  
7 prescriptions that were in there, theft of  
8 drugs by a technician or a pharmacist, but --  
9 those things.

10 Q. You never -- well, let me ask it  
11 this way --

12 A. Yeah, ask it a better way.

13 Q. You testified earlier about when you  
14 went into the Overholt Pharmacy, that was sort  
15 of a different situation than what you had seen  
16 elsewhere, and I think you said you didn't even  
17 check the box for leaving a pink sheet, you just  
18 went immediately to an investigation and  
19 prosecution?

20 A. They got a pink sheet at Overholt  
21 Pharmacy when I went in on that particular day  
22 with four or five other people. But yeah, I  
23 was with a determination when I went into that  
24 pharmacy looking for trafficking in drugs,  
25 illegal processing.

1 Q. Did you ever have an investigation  
2 like that at a Walgreens pharmacy?

3 A. No, not that I recall.

4 Q. You're not aware of Walgreens ever  
5 being the subject of any criminal or civil  
6 investigations due to alleged diversion of  
7 controlled substances, correct, sir?

8 A. Walgreens specific, no.

9 Q. You concluded, based on your  
10 inspections of the Walgreens pharmacies in  
11 Northeast Ohio, that Walgreens was operating  
12 lawfully; is that fair?

13 A. I found them to be very compliant.

14 Q. You testified earlier that you  
15 investigated or prosecuted something along the  
16 lines of 90 prescribers in your 25 years at the  
17 Board of Pharmacy?

18 A. Approximately 90. Could have been  
19 80. It was in that range. It was a lot.

20 Q. Would you agree that those roughly  
21 90 prescribers contributed to diversion, misuse  
22 and abuse of prescription opioids in Northeast  
23 Ohio?

24 A. They were contributing to lots of  
25 things, yeah, I would agree.

1           Q.     You also, I believe, testified that  
2     you had occasion to investigate patients who  
3     were either abusing, misusing or diverting their  
4     prescription medications, right?

5           A.     Lots of them, yes.

6           Q.     Would you agree with me that those  
7     patients contributed to diversion, misuse and  
8     abuse of prescription opioids in Northeast Ohio?

9           A.     Yes.

10          Q.     You testified earlier that opioids  
11     sometimes come into Northeast Ohio from Mexico  
12     illegally, correct, sir?

13          A.     Outside the state, yes.

14          Q.     You agree with me that when opioids  
15     come into the state from Mexico or other foreign  
16     places illegally, that contributes to diversion,  
17     misuse and abuse of opioids in Northeast Ohio?

18          A.     Yeah, I would agree to that.

19          Q.     Mr. Weinberger asked you some  
20     questions about something he referred to as the  
21     gateway theory. Do you remember those  
22     questions?

23          A.     Yes, I remember him asking me.

24          Q.     Would you agree with me,  
25     Mr. Pavlich, that the vast majority of people

1 who use prescription opioids according to a  
2 doctor's prescription never use heroin?

3 MR. WEINBERGER: Objection.

4 A. I don't know if that's true. I  
5 don't know. I would think you abuse one drug,  
6 you can abuse another.

7 Q. You're not a medical doctor, are  
8 you, Mr. Pavlich?

9 A. No. Far from it.

10 Q. Do you have any expertise at all in  
11 epidemiology?

12 A. No.

13 Q. Have you ever conducted a study on  
14 the likelihood of people to turn from  
15 prescription opioids to misuse of opioids to  
16 heroin or anything like that?

17 A. No, never have.

18 Q. You don't have any expertise in  
19 addiction medicine; is that fair?

20 A. Other than arresting people, that's  
21 about the extent of it.

22 Q. You don't have any idea what the  
23 actual numbers are regarding people who start on  
24 prescription opioids and later turn to illegal  
25 drugs, correct?

1 A. No.

2 Q. No, I'm not correct or no, you don't  
3 know?

4 A. No, I don't know.

5 Q. You testified earlier about a Dr.  
6 Orr. Do you remember that testimony?

7 A. Yes. Your voice got screeched.

8 Q. You remember your testimony this  
9 morning about a Dr. Orr?

10 A. Orr, yes.

11 Q. How do you spell that doctor's name?

12 A. O-R-R.

13 Q. Do you know what the doctor's first  
14 name is?

15 A. Dennis.

16 Q. Do you know whether he was  
17 convicted?

18 A. I believe he was.

19 Q. You said that you've been involved  
20 in investigating and prosecuting pharmacists,  
21 and I believe a moment ago you mentioned  
22 something about a Walgreens pharmacy technician.  
23 Do you have any personal knowledge of any  
24 Walgreens pharmacist or pharmacy technician  
25 being prosecuted?

1           A.       I can't remember the name, but I  
2       remember -- because Brian Joyce was there with  
3       me. I mean, I had cases all over the place,  
4       but I remember the pharmacy technician that was  
5       working at the main -- Route 224 and Route 7 in  
6       Boardman, Ohio. She was stealing out of their  
7       automatic dispensing machine, I believe it was,  
8       hydrocodone. And Brian Joyce called me and  
9       said, "I think we have a problem here."

10                   And I went in, and I can't remember  
11       if I used their cameras, which I think I did,  
12       but I'm not sure if I used our cameras, the  
13       Board of Pharmacy. And I caught her in the  
14       act. And then -- live, and then I brought her  
15       in the interview room and she confessed.

16           Q.       Is it fair to say that the  
17       circumstance you're aware of involving a  
18       Walgreens technician stealing drugs, a Walgreens  
19       pharmacist brought it to your attention?

20           A.       Yeah. That's what I would expect.

21           Q.       And that is, in fact, what happened  
22       in that circumstance?

23           A.       That's, in fact, what happened. I  
24       don't know if it was Brian Joyce that called me  
25       or a staff pharmacist, but I believe it was

1 Brian. I had a very good working relationship  
2 with him.

3 Q. Is that the only circumstance you  
4 can think of involving a Walgreens tech stealing  
5 drugs or anything like that?

6 A. With Walgreens, yeah. That one  
7 comes right to my mind, but I -- you know, I  
8 could have done ten. I don't remember.

9 Q. Any time something like that has  
10 happened, has the pharmacy, the chain pharmacy,  
11 cooperated in your investigation?

12 A. Walgreens?

13 Q. Yes.

14 A. Yes. Very cooperative.

15 Q. Have you ever talked to  
16 Mr. Weinberger prior to today, the Plaintiffs'  
17 lawyer who questioned you?

18 A. No, I have not.

19 Q. Have you ever talked to -- I'm going  
20 to name a couple of other lawyers and I just  
21 want to know if you've ever talked to them  
22 before.

23 Hunter Shkolnik or Frank Gallucci?

24 A. No.

25 Q. Have you ever talked to any lawyers

1 on behalf of Lake County, Trumbull County,  
2 Cuyahoga County, or Summit County?

3 A. In relation to this?

4 Q. Yes.

5 A. No.

6 Q. You testified this morning that  
7 pharmacists should use their knowledge and  
8 expertise in filling prescriptions on an  
9 individual basis. Would you agree with me that  
10 pharmacists are supposed to do that prescription  
11 by prescription one at a time?

12 A. Absolutely.

13 Q. You mentioned a scrapbook earlier  
14 today. Do you have a scrapbook related to cases  
15 that you worked on when you were at the Board of  
16 Pharmacy?

17 A. Yeah. I sort of kept a little  
18 trophy thing of cases, but it's not as  
19 extensive as what I had compiled during my  
20 career. There was a few things. I got a  
21 scrapbook over there with all the newspaper  
22 clippings. It's about -- it's thick. It's  
23 about that thick (indicating).

24 Q. I'm just going to ask, if you would,  
25 please, sir, not to destroy that or throw it

1 away. We may ask for a copy of it. That will  
2 be something that we can talk to the lawyers  
3 about, but my only request to you is will you  
4 please not throw it away or destroy it?

5 A. I didn't plan on it.

6 Q. I figured.

7 A. It's my career gold medal, I guess  
8 you would say.

9 Q. You mentioned a pharmacy that had  
10 the word "mart" in it that you said was not a  
11 chain pharmacy that had been involved, I  
12 believe, in some kind of criminal activity. Do  
13 you remember that?

14 A. I mentioned a pharmacy that was  
15 involved in some other criminal activity?

16 Q. And it had the word "mart" in the  
17 name.

18 A. Oh, yeah. I thought that -- when I  
19 did the investigation on Masters, Sherman and  
20 Theisler, there was a pharmacy in the plaza  
21 right up from them, where I was pulling a lot  
22 of scripts out of, but they were also  
23 cooperating with me at the same time. I put  
24 that case together pretty quick because of the  
25 aspect of how the case -- one doctor wasn't

1 even around and I'm getting the scripts out of  
2 there. So I was working with that pharmacy,  
3 but they closed. It wasn't Drug Mart. It was  
4 --

5 Q. Was it MedSmart?

6 A. It might have been MedSmart. Yeah,  
7 that might have been it.

8 MS. SWIFT: That's all I have.  
9 Thank you very much, sir. I don't think I'm  
10 the last one, but I'm done. So thank you for  
11 your time. I appreciate it.

12 THE WITNESS: I've been in a lot of  
13 battles. I'm used to this.

14 EXAMINATION OF GEORGE P. PAVLICH  
15 BY MR. MOYLAN:

16 Q. Agent Pavlich, my name is Daniel  
17 Moylan. I'm going to have some questions  
18 regarding CVS.

19 Is it fair to say that during your  
20 work at the Board of Pharmacy you had occasion  
21 to inspect CVS pharmacies from time to time?

22 A. Oh, yeah. I was in them, all of  
23 them in my territory.

24 Q. And as with all of your inspections,  
25 you tried to be thorough and diligent when you

1 conducted those inspections?

2 A. Best of my abilities.

3 Q. And if you noted any issues during  
4 one of those inspections, those would be  
5 documented in your inspection reports for CVS  
6 pharmacies, correct?

7 A. That is absolutely correct.

8 Q. We're not going to spend time going  
9 through specific reports the way you have  
10 earlier today, but thinking back over the course  
11 of your career, do you believe your inspections  
12 of CVS pharmacies were generally favorable?

13 A. The majority were favorable. Did  
14 I -- you know, I mean, I had a few incidents in  
15 CVS stores. I mean, I could think of one right  
16 off the top of my head involving a technician.  
17 And I had a pharmacist at a CVS store, had a  
18 problem with him, got him arrested and  
19 convicted. But the majority, the large  
20 majority of CVS stores were compliant and  
21 accountable and the pharmacists were good.

22 Q. With respect to the pharmacy  
23 technician that you mentioned, what do you  
24 remember about that case?

25 A. I remember it was in -- the main

1 street in Hubbard, Ohio. Jim Romeo was the  
2 pharmacist in charge. There was a technician  
3 in there. And I'm trying to think of the drug  
4 she was taking. I believe it was -- I think it  
5 was a combination of drugs. It might have been  
6 Soma and hydrocodone. And the pharmacist  
7 called me -- I believe it was the pharmacist  
8 direct, because I knew Jim Romeo. He was an  
9 absolutely great pharmacist. And he would call  
10 me about a lot of things. And he told me there  
11 was a theft of drugs in there. And I believe I  
12 talked to the CVS supervisor, too. So what I  
13 did was I set a camera up and did a number of  
14 things like that and I wanted to catch her  
15 live. And Jim was very thorough in  
16 documenting, putting the bottles on the shelf,  
17 and I caught her live.

18 Q. So as a result of Pharmacist Romeo  
19 contacting you and providing those forms of  
20 assistance, it helped you in your investigation  
21 to catch the pharmacy technician?

22 A. Without him, I, first of all,  
23 wouldn't have known, either him or the  
24 supervisor. I can't remember. But he was very  
25 articulate.

1           Q.       Okay. And with respect to the CVS  
2 pharmacist that you mentioned who was convicted,  
3 what was that -- the nature of that incident?

4           A.       Well, the one -- you know, you get  
5 these things that come to the top of your head.  
6 His name was Gary -- I can't think of his last  
7 name, but it was the CVS Pharmacy in downtown  
8 Warren, sat right on the corner there, right up  
9 the street from the courthouse. And there was  
10 a pharmacist in there and he was filling --  
11 well, I sent an undercover in. He was a very  
12 poor recordkeeper. Probably the messiest CVS I  
13 was in. And that was what kind of tripped my  
14 trigger mechanism, should I say, to start  
15 looking at them. And one thing led to another  
16 and I ended up sending an undercover female in  
17 there, and she went in there and promised him  
18 sex if he would give -- fill prescriptions,  
19 illegal prescriptions obviously. And he did.  
20 And I charged him in Trumbull County and  
21 convicted him.

22           Q.       Apart from the two cases that you've  
23 described involving the pharmacy technician that  
24 Mr. Romeo or the pharmacy supervisor brought to  
25 your attention and the other case involving the

1 pharmacist who was caught through the undercover  
2 operation, is it fair to say that over the  
3 course of your career, your general experience  
4 with CVS pharmacies is that they've been  
5 cooperative and they have had essentially clean  
6 records in their inspections?

7 A. I mean, clean records in the  
8 respect that, I mean, they might have got a  
9 pink sheet here and there, but I was very  
10 comfortable in most, if not all of their  
11 pharmacies. That was one exception, the one in  
12 Warren. But again, no major issues with the  
13 pharmacy specific.

14 Q. With respect to the inspection  
15 process that you went through, did you find CVS  
16 pharmacies' pharmacists to be responsive to your  
17 request for information?

18 A. Yes, them and -- I can't think of  
19 the supervisor. I believe she was a female.  
20 I'd have to look in my little directory there.  
21 They were always cooperative. Never gave me,  
22 you know, a hard time about anything.

23 Q. And apart from your inspections, did  
24 CVS pharmacists provide tips and information for  
25 your investigations?

1           A.       Yeah. I can't remember every  
2 specific tip and information, but I got calls.  
3 I remember Jim Romeo specific. He called me  
4 about everything. I mean, if it had a fly on  
5 it, he would call me. He was great. And all  
6 that information, you know, I would sort and  
7 work out, and sometimes it was nothing and  
8 sometimes it led to a big thing.

9           Q.       To the best of your knowledge, did  
10 the Board of Pharmacy ever deny a license  
11 application for a CVS pharmacy?

12          A.       Not to my knowledge. I mean, they  
13 could have. I don't recall anyone in my  
14 territory specific.

15          Q.       Okay. So you're unaware of any  
16 denial?

17          A.       Yeah. It would have not been my  
18 call. When they file an application, it would  
19 have been a call in Columbus. It was not --  
20 when it comes to me, it's going to get issued,  
21 unless I get there and, you know, it's a shack  
22 in the middle of a field that I'm not going to  
23 issue the license. But not to my knowledge.

24          Q.       Just to make sure the record is  
25 clear, as you're sitting here today, you're

1     unaware of any instance where a CVS pharmacy was  
2     denied a license application?

3             A.     I'm unaware. I cannot recall one.  
4     I'm not saying it never happened, but --

5             Q.     Similar question. You're unaware of  
6     any instance where a CVS pharmacy was denied a  
7     license renewal?

8             A.     Nothing off the top of my head that  
9     I can recall, no.

10            Q.     To the best of your knowledge,  
11     there's not been a CVS pharmacy in Trumbull or  
12     Lake County that's had its license suspended?

13            A.     I don't know about Lake County, but  
14     in Trumbull County I can't recall one.

15            Q.     And to the best of your knowledge,  
16     you're not aware of a pharmacy in -- a CVS  
17     pharmacy in Trumbull County or Lake County  
18     that's had its license revoked?

19            A.     Can't account for Lake County, but  
20     as far as Trumbull County, I can't recall one  
21     getting revoked.

22            Q.     Did CVS pharmacies have a computer  
23     system when you inspected that was approved by  
24     the Ohio Board of Pharmacy?

25            A.     Yes.

1           Q.       And as part of your inspections,  
2       would you inspect the computer system used in  
3       the pharmacies?

4           A.       I'm far from being a computer  
5       wizard. I would see the functionality of the  
6       computer system, see how it functioned, note  
7       that it functioned, note the software. Pretty  
8       much beyond that -- you know, that's my extent.  
9       When I went to college, we didn't have  
10      computers. We didn't even have a calculator.  
11      They were using slide rules. So, you know, it  
12      wasn't my forte. I just would document what  
13      minimal I could document. But they always --  
14      they all seemed to be operational. I can't  
15      even remember the software they used.

16          Q.       Okay. But to the best of your  
17      recollection, you found, when you did these  
18      inspections, that the computer systems used in  
19      CVS pharmacies were generally acceptable?

20                  MR. WEINBERGER: Objection.

21          A.       I would say they were acceptable or  
22      I would have noted it.

23          Q.       You testified a little bit earlier  
24      today that you really didn't know what the  
25      corporate data systems the chains used in their

1       headquarters might have been. Do you remember  
2       that testimony?

3               A.       Yes.

4               Q.       In your inspections of CVS  
5       pharmacies, is it fair to say that you never  
6       provided any written guidance that CVS needed a  
7       corporate-wide computer system to analyze data  
8       about patients or prescribers or prescriptions  
9       of concern?

10              A.       I would have never -- never gone to  
11       that extent, no.

12              Q.       Okay. And, similarly, is it also  
13       fair to say that you wouldn't have provided any  
14       oral guidance to a CVS that it had to use a  
15       company-wide computer program to identify  
16       patients or prescribers or prescriptions of  
17       concern?

18              A.       That would not be coming from me.

19              Q.       And is that -- are those answers the  
20       same for the other pharmacy Defendants, that you  
21       wouldn't have provided written or oral guidance  
22       to that effect?

23              A.       To the best of my knowledge, I  
24       would not have done that to a corporate level.  
25       I would only be specific to the store I was at.

1 Q. And to the extent you provided any  
2 oral guidance, that would be noted in your  
3 reports, I gather?

4 A. Not that I know of. I mean, who  
5 knows over 25 years, but not that I recall.

6 Q. And for sure if it was any kind of  
7 an issue that you considered to be significant,  
8 you would note that in your reports; is that  
9 fair?

10 A. I would have noted something in my  
11 report to something that I found unique.

12 Q. Understood.

13 To the best of your knowledge, did  
14 the Ohio Board of Pharmacy ever issue written  
15 guidance that pharmacies needed a company-wide  
16 computer program to identify patients,  
17 prescribers or prescriptions of concern?

18 A. They could have. I wasn't at that  
19 grade --

20 Q. Okay. But you're not aware --

21 A. -- or institute it. It wasn't my  
22 call.

23 Q. But as you're sitting here today,  
24 you're not aware that the Board of Pharmacy ever  
25 did that?

1           A.       I'm not aware.

2           Q.       I think you testified earlier that  
3       prescriptions and prescription logs were two  
4       types of documentation that pharmacies were  
5       required to have. Did I understand that right?

6           A.       Yes. A prescription is the hard  
7       copy, as it was called, and prescription logs  
8       is the specific documentation compiled based on  
9       the hard copy.

10          Q.       Is it fair to say that pharmacists  
11       were not required to document every action that  
12       they took with respect to a specific  
13       prescription? Is that fair?

14          A.       They would have to document what  
15       they dispensed specifically and that label  
16       would be affixed to that prescription.

17          Q.       Understood. So just to take an  
18       example, if a pharmacist asked the patient  
19       questions, there wasn't a requirement that  
20       that -- that Q&A be recorded in the records of  
21       the pharmacy?

22          A.       I would see that sometimes, the  
23       pharmacist had a specific question and I would  
24       see documentation. I used to tell pharmacists,  
25       "Prescriptions are your bible. To me, that's

1     your bible. You document everything on the  
2     prescription and we're never going to have a  
3     problem. If you don't, don't tell me later you  
4     forgot. It's now or never." And that's pretty  
5     much -- you know, a pharmacist might mark on  
6     the back of the prescription the  
7     contraindicated drugs that that patient, you  
8     know, couldn't take and all those type of  
9     things, you know. But it wasn't a regular  
10    thing. They would go into their computer and  
11    put things like that, they're allergic to this  
12    or that or whatever.

13           Q. But in terms of the steps that a  
14    pharmacist could take, there wasn't a  
15    requirement that, when you conducted  
16    inspections, that every step would have to be  
17    documented in order for you to pass the pharmacy  
18    in that inspection?

19           A. No. There was no step-by-step  
20    documentation, no. Pharmacists, they had a  
21    certain thing they had to do, they had certain  
22    requirements, and -- for recordkeeping, for  
23    manner of issuance, for all of those things,  
24    and I would look and see if they were in  
25    compliance. And if they weren't, I would

1 orally bring it to their attention if it was  
2 minor or I would document it on the  
3 prescription and then -- or on the inspection  
4 sheet.

5 Q. And to take another example, if a  
6 pharmacist called the doctor's office to check  
7 on a specific patient or prescription, there  
8 wasn't a requirement that you had that that  
9 would have to be documented in every case; is  
10 that fair?

11 A. No, but I know I had -- I would  
12 tell pharmacists, you know, it's a good idea to  
13 document that down there because if a  
14 pharmacist said to me, "Well, I called the  
15 doctor's office and he said these scripts were  
16 good," and I look at the back of the script and  
17 I go, "And you documented that where," and  
18 said, "If you don't write it on the script, how  
19 do I know you're not telling me a lie now?" So  
20 you know, I kind of preached things. You know,  
21 I was like a little preacher out there to these  
22 guys, far from being a pharmacist, but I tried  
23 to keep them out of trouble. I had enough  
24 trouble out there, and I wanted to keep  
25 pharmacists good so I had less trouble out

1       there.

2               Q.       So it sounds like you preferred  
3       seeing pharmacists that documented those kind of  
4       steps so that you and they could tell later what  
5       they had done; is that fair?

6               A.       Right. It's like my memory now.  
7       Do I remember this or do I remember that?  
8       Hell, no, I don't remember this or that, but if  
9       you write it down and you document it, there it  
10      is and I got it, you know, and that's how I  
11      preached to them.

12              Q.       Understood.  
13                      But there was no regulatory  
14      requirement that came out of the administrative  
15      code that --

16              A.       Not that I can recall, the  
17      step-by-step procedural things, yeah, you got  
18      to document or put it someplace in the  
19      computer, the patient has allergies or allergic  
20      reactions to certain drugs, yeah, you got to  
21      put that in there, but not a step by step, no.  
22      It's the manner of issuance of a prescription  
23      and that's what you follow.

24                      MR. MOYLAN: Sir, that's all the  
25      questions I have. So I think we may have one

1 more questioner and we very much appreciate  
2 your time.

3 EXAMINATION OF GEORGE P. PAVLICH  
4 BY MR. NORTEY:

5 Q. Good evening, Mr. Pavlich. My name  
6 is James Nortey and I'll be the next questioner,  
7 but before I begin, I just wanted to check and  
8 see if you needed a quick break. I don't think  
9 my questions will be very long, but I also know  
10 you've been going for a while.

11 A. I don't need a break.

12 MR. ZHOU: And before you start,  
13 James, I'll just say that I have a few  
14 questions as well so you won't be the last,  
15 unfortunately.

16 THE WITNESS: I'm good to go if  
17 you're ready to go.

18 Q. Mr. Pavlich, I take it from earlier  
19 testimony that you certainly inspected several  
20 Rite-Aid pharmacies during your career; is that  
21 right?

22 A. Yes.

23 Q. And similar to the other pharmacies,  
24 if you had any issues or concerns with Rite-Aid  
25 stores, you would document those in your

1 inspection reports, right?

2 A. Yeah, I would document it, to an  
3 extent.

4 Q. Earlier today you identified two  
5 Rite-Aid personnel who I believe, in your view,  
6 were not as responsive as you would have liked.  
7 Do you recall that testimony?

8 A. Yes.

9 Q. Were those the only instances where  
10 a Rite-Aid pharmacist hadn't been as responsive  
11 as you would have liked?

12 A. Those were the only two pharmacy  
13 supervisors that I had a little issue with in  
14 their attitude and approach and my requests.  
15 One is deceased, and I don't know where the  
16 female is now, but -- and I remember, you know,  
17 just one particular incident with the one  
18 that's deceased. And the female, I just had --  
19 I just had problems with her. She just -- you  
20 know, I would say I needed something or I've  
21 got to get something or go in someplace, and it  
22 was always like she was dragging her feet on  
23 the floor to get it done with me. I just -- I  
24 used to get a knot in my stomach when I had to  
25 call her about something. And, you know, that

1 has no reflection on the individual pharmacist.  
2 That's just those two.

3 Q. I appreciate that, Agent Pavlich.  
4 For the supervisor that's now  
5 deceased, do you recall his name?

6 A. Yes. James Chalfin, C-H-A-L-F-I-N,  
7 Jim we called him. And I remember the location  
8 where it was at. It was a Rite-Aid in the  
9 Newport Plaza. It was right on the border of  
10 Youngstown and Boardman. And I arrested a  
11 pharmacist, I indicted and convicted a  
12 pharmacist that was in that store in relation  
13 to this conversation.

14 Q. And do you recall the name of the  
15 pharmacist that was arrested?

16 A. John Perry. I took him to federal  
17 court.

18 Q. And this was inside a Rite-Aid  
19 store?

20 A. A Rite-Aid store at Newport Plaza.  
21 It's not there anymore, but that's where it  
22 was. It was on Market Street in -- just across  
23 the border from Youngstown. It was right on  
24 the dividing line. Newport Plaza Rite-Aid.

25 Q. Now, was this in relation to an

1 inspection involving a doctor case?

2 A. No. This was in relation to an  
3 investigation involving the pharmacist that was  
4 working there, John Perry. And I was in there  
5 and -- to shorten the whole thing, he was  
6 diverting drugs for cash. He was filling bad  
7 scripts, so on and so forth. And I also was in  
8 there on a doctor that I was working on in  
9 Boardman and he had scripts in there that I was  
10 going to pull out.

11 And Mr. Chalfin came into the  
12 pharmacy and I started telling him we got a  
13 problem here and we're going to address this  
14 problem on this particular doctor out in  
15 Boardman. I talked to him covertly regarding  
16 the pharmacist, but that was another issue.  
17 And he said to me -- and I could remember this  
18 conversation so well -- "What are you talking  
19 to us about? We're just dispensing these  
20 prescriptions. He wrote them."

21 And I'm like, "Really?"

22 And he's like, "Yeah." He goes,  
23 "We're just dispensing it. You know, the  
24 doctor is responsible. He wrote it. I don't  
25 know what he wrote it for or whatever."

1                   And I told Mr. Chalfin, "You better  
2 go in your law book over there and look at  
3 corresponding responsibility on manner of  
4 issuance, and after you look at that, you're  
5 going to understand what I'm talking to you  
6 about and you better make sure you have a  
7 corresponding responsibility understanding with  
8 yourself and all your pharmacists if you're  
9 going to dispense prescriptions just because  
10 you got a piece of paper from a doctor. You  
11 better use all your powers in your practice of  
12 pharmacy to determine if it's good or bad."  
13 And I never had a problem with him again.

14               Q.       You predicted my very next question,  
15 so to the extent that you didn't have a problem  
16 with that supervisor after you had a  
17 conversation, were you able to work on any other  
18 inspections or investigations related to that  
19 Rite-Aid?

20               A.       Yes. I did a number of cases out  
21 of all the chains, and he was very cooperative  
22 after that. We didn't really have a problem.  
23 You know, I had a certain way of getting the  
24 attention of people, and he was one of them.  
25 So I didn't have any more problems with

1 Rite-Aid. I got that all done. I just had a  
2 problem with the other pharmacy supervisor for  
3 Rite-Aid when it came to, you know, doing --  
4 getting things done, you know, going into a  
5 pharmacy and they got someone stealing drugs  
6 out of there, they got a shortage  
7 accountability. You know, she would just not  
8 make it as easy as a Walgreens pharmacist or  
9 this one or -- supervisor, always wanted to be  
10 standing on my feet when I'm in there, always  
11 wanted to bring her loss prevention guy, Mark,  
12 whatever his name was, into the pharmacy, you  
13 know, just like -- like a company mother or  
14 something, you know, and it just aggravated me.  
15 Maybe it was our personality. She was  
16 aggressive and I was obviously very aggressive,  
17 too. So it could have been just that, but I --  
18 I used to get a knot in my stomach over her,  
19 Ms. Mendenhall.

20 Q. I want to come back to  
21 Ms. Mendenhall in a second. I want to focus  
22 first on this Rite-Aid near the Boardman plaza.  
23 You also referenced a Rite-Aid employee who was  
24 arrested just a few minutes ago. Do you recall  
25 that?

1           A.       Yes.   His name was John Perry.   He  
2   was a registered pharmacist in the State of  
3   Ohio, and as a matter of fact, he lived across  
4   the street one house over from me in my  
5   development.

6           Q.       And how did you first learn about  
7   John Perry?

8           A.       You know, I can't remember  
9   specifically if it was I was in the store and  
10  saw some unusual prescriptions or I was working  
11  someone out in the street and they provided  
12  information that led to the investigation on  
13  him, because I know on that particular  
14  pharmacist I sent someone in undercover with a  
15  false prescription and with marked money.   And  
16  he filled it.   And then when I went in to get  
17  him, he had the money in his pocket.   But what  
18  initiated it, I can't -- it was one of those  
19  two things.

20          Q.       Do you recall if any other employees  
21  at Rite-Aid ever provided a tip related to this  
22  arrest?

23          A.       No.   I don't think I got a tip.  
24   I'm pretty certain it was either seeing  
25  prescriptions or getting the information from

1 someone in the street. I didn't get a tip on  
2 that. I mean, I got help. I believe  
3 Mr. Chalfin was the supervisor then and he --  
4 you know, he kept confidentiality when I told  
5 him what was happening. So I didn't have no  
6 problem on that respect from corporate or  
7 anyone. I did my job and they let me free rein  
8 it.

9 Q. You predicted some of my next  
10 questions, but just so the record is clear, when  
11 you told Mr. Chalfin about the specific  
12 behavior, was he cooperative in assisting you?

13 A. I had his full attention when I  
14 started talking to him. Jim was -- I mean, I'm  
15 not a small guy. I'm six foot one, 200 pounds.  
16 And he was a lot bigger than me. And, you  
17 know, he liked to -- he liked being a  
18 supervisor. You know, he had his rough way  
19 about him a little bit. And I just finally had  
20 enough of it and got his attention on this  
21 particular prescription issue, manner of  
22 issuance and corresponding responsibility. And  
23 I never had another time to have to talk to him  
24 again about it.

25 Q. I understand but I want to stay with

1     this arrest very, very briefly. In what ways  
2     did Mr. Chalfin assist you in handling the  
3     arrest of the Rite-Aid employee?

4           A.     He kept confidentiality. He never  
5     disclosed what I was going to do to the  
6     pharmacist, which was pass him a bad script,  
7     give him cash, and take him down in the  
8     pharmacy during operational hours, which was  
9     late at night, as I remember. It was dark. He  
10    provided me with another -- he brought in  
11    another pharmacist to work in the pharmacy when  
12    I went in and got that pharmacist and took him  
13    in the back room. He was fully cooperative,  
14    and, you know, records that I needed, whatever  
15    in the pharmacy, I got complete cooperation.

16           Q.     Did you ever instruct Mr. Chalfin  
17    not to fire the employee?

18           A.     No. He fired him right then and  
19    there.

20           Q.     That was my next question. After  
21    that employee was fired, terminated, do you  
22    recall any other incidences of similar behavior  
23    at this Rite-Aid store?

24           A.     At that Rite-Aid store, no.

25           Q.     And do you recall any other behavior

1     like this at any Rite-Aid store in Trumbull  
2     County?

3             A.       Oh, boy. That was in Mahoning  
4     County, the one I'm talking about. In Trumbull  
5     County, I mean, I -- you're talking about a  
6     long span of time. I could have had issues. I  
7     had -- I'm sure I had issues. I just can't  
8     think of, you know, anything in particular. I  
9     just remember -- I remember I was at the  
10    Rite-Aid with Patty Mendenhall and she brought  
11    in her loss prevention guy and just -- you  
12    know, I was trying to get a tech, I think it  
13    was, that was stealing out of the pharmacy,  
14    and, oh, my goodness, she just made my life so  
15    miserable in there, just not giving me a free  
16    rein, wanted to be, you know, touchy feely,  
17    handy, you know, on top of me, on top of  
18    everything I was doing. And it was not my  
19    style. You know, my style is I'm the Lone  
20    Ranger. You know, I go do my thing. It was a  
21    Rite-Aid right on the entrance into Warren. It  
22    was on the right-hand side going in right off  
23    of Interstate -- right off the main interstate  
24    there. And that was Patty Mendenhall. But it  
25    was a technician and it was a theft of drugs.

1                   And there was, you know, other  
2 places I'm sure, but I just can't think of  
3 them. That was in Trumbull County.

4           Q.       So we've talked about two cases. Is  
5 it fair to say that to the best of your current  
6 recollection, these are the only two Rite-Aid  
7 cases you can recall right now?

8           A.       Off the top of my head, yeah. They  
9 just seemed to pop in there. I'm sure there  
10 was other cases. I'm trying to think of it as  
11 I'm talking to you, but, you know, those two;  
12 John Perry, because he was my neighbor across  
13 the street, and that particular one, because I  
14 just -- I remember that case with her in there  
15 on that technician because, you know, I was so  
16 aggravated that I said, boy, if I don't have to  
17 work with her anymore, I'm not going to work  
18 with her. And that was pretty much what I can  
19 recall.

20           Q.       I appreciate that.

21                   In your inspection regarding  
22 Patricia Mendenhall, once you were able to talk  
23 to her, were you able to resolve that  
24 inspection, that investigation?

25           A.       Yeah. I resolved the investigation

1 and I'm certain I brought it down to the  
2 Trumbull County Prosecutor's Office. It wasn't  
3 as aggravating for me. There was an agent  
4 south of or southwest of me that had tremendous  
5 problems with her, tremendous. That was Agent  
6 David Gallagher. They were at -- they were at  
7 a great level of disagreement on things. That  
8 was just one incident with me. But Agent  
9 Gallagher and her were really at odds on  
10 things.

11 Q. To be clear, Agent Pavlich, when you  
12 talked about having trouble, this was in terms  
13 of the responsiveness to your request, right?

14 A. Yeah. It was the response to an  
15 investigation in that pharmacy that I clearly  
16 recall just not being comfortable with how I  
17 was doing what I wanted to do and -- I wouldn't  
18 call it obstructing me. I would just call it  
19 very close supervision on her part of a person  
20 who didn't work for Rite-Aid and she's trying  
21 to supervise me. You know, it was like what --  
22 you know, you're not even law enforcement. I'm  
23 handling this. Stay out of this. Let me  
24 finish and you can have your pharmacy back. It  
25 was just an aggravating experience. And I --

1 and I wouldn't speak badly about someone if I  
2 wasn't aggravated over it. And I wouldn't  
3 recall it so well if I wasn't aggravated over  
4 it. And I was. But overall, I didn't have any  
5 bad experiences with Rite-Aid other than those  
6 two that I can think of off the top of my head.

7 Q. Generally speaking, those  
8 inspections, other than those two, were  
9 generally favorable and positive; is that right?

10 A. Yes, unless I issued a pink sheet,  
11 which you don't have examples you're showing  
12 me. But yeah. Generally, I had personally,  
13 myself as a field agent, no issues with  
14 Rite-Aid in general. I got along with the  
15 majority of -- there was another pharmacy  
16 supervisor, Tim Reik, I believe his name was.  
17 It was with an R, R-E-I-K, or something like  
18 that. And I got along with him fine. And I  
19 got along with the majority, if not all of the  
20 Rite-Aid pharmacists.

21 Q. Thank you.

22 And then, lastly, the technician  
23 you were working with under Patricia  
24 Mendenhall's supervision, do you recall the  
25 technician's name?

1           A.       No.    That -- that I do not recall.  
2    Sorry.

3           Q.       That's quite all right.  
4                    Do you recall about what time  
5    period this incident with the technician,  
6    Patricia Mendenhall, would have been?

7           A.       I would say it was within the ten  
8    years before I retired.   It was somewhere in  
9    there, because Tim Reik was the guy that I  
10   usually dealt with.   And then she was south of  
11   me.   She worked -- she was a supervisor south  
12   of me, and in some way, how or another there  
13   was a reorganization and she ended up getting  
14   that area there, and, you know, we just had to  
15   get to an understanding who's doing what.

16          Q.       And since you retired in 2012, is it  
17   your testimony that this would have happened  
18   sometime after 2002?

19          A.       No.    Before.   Ten years prior to my  
20   retirement.

21          Q.       I see.

22          A.       I'm guessing.   I'm guessing.   I  
23   know I took it to the Trumbull County  
24   Prosecutor, but names and dates -- I might have  
25   it in my scrapbook.   Who knows.

1           Q.       I understand it's been quite some  
2     time.

3                   The incident with John Perry, do  
4     you recall about when that occurred?

5           A.       Yeah. That was -- that was when  
6     Jim Philamena was the prosecutor in Mahoning  
7     County, and he got federally convicted in the  
8     late '90s, so it was before -- it was somewhere  
9     in the mid '90s when that occurred, because he  
10    was trying to fix the pharmacy case on John  
11    Perry, and I went and took the case to the  
12    federal prosecutor up in Cleveland, because I  
13    had that ability to do that, working with the  
14    DEA task force. And I went up there and saw  
15    Nancy Kelly -- she was an assistant U.S.  
16    Attorney up there -- and took the case to her.  
17    And he was convicted.

18          Q.       Just in summary, since 2002 you  
19    can't recall at this time any negative  
20    incidences or issues with a Rite-Aid pharmacy  
21    that you personally inspected; is that right?

22          A.       Yeah, not off the top of my head.  
23    Nothing is jumping out other than what I  
24    already brought to your attention.

25          Q.       Mr. Pavlich, would you say that

1 Rite-Aid pharmacies generally complied with the  
2 Board of Pharmacy's security requirements?

3 A. Yes, I would say they generally  
4 complied.

5 Q. And would you also agree that they  
6 generally had controls in place that met the  
7 Board of Pharmacy's requirements?

8 A. I would say they generally had  
9 controls in place, yes.

10 Q. And, as you said before, since 2002  
11 you're not aware of anyone at a Rite-Aid  
12 pharmacy that was knowingly filling illegitimate  
13 opioid prescriptions, right?

14 A. Well, if I dug in the records, I  
15 might be able to find things, but if I found  
16 it, I would have had them indicted and/or  
17 convicted. You know, I'm just trying to do  
18 this off the top of my head after eight years  
19 retired on top of that.

20 Q. I understand, Mr. Pavlich, but  
21 certainly if you found something, it would have  
22 been reflected in your reports, correct?

23 A. Oh, it would have been documented  
24 in a case number, incident report, and heavy  
25 documentation, especially if I took it to

1 court.

2 Q. Agent Pavlich, you testified that  
3 you tried to develop a lot of professional  
4 relationships with pharmacists in your  
5 investigations. Do you recall that?

6 A. I tried to resolve. I didn't catch  
7 it.

8 Q. Sure.

9 You tried to develop relationships,  
10 professional relationships with pharmacists?

11 A. I tried. I tried. That was part  
12 of my -- my secret. That was part of how I did  
13 so many physician, you know, criminal cases,  
14 among other things. Pharmacists were my eyes  
15 and ears out there. I couldn't be everywhere.  
16 I mean, I had, you know, hundreds of sites I  
17 was responsible for. So I relied on them, and  
18 I got the word out that cooperate with me and  
19 keep good records and you're not going to have  
20 any problem with me, but don't let me find out  
21 that you're not telling me something later on  
22 because I'm going to hold you with  
23 corresponding responsibility if you don't. And  
24 believe me, my phone was ringing.

25 Q. Thank you, Agent Pavlich.

1 I believe you also developed  
2 professional relationships with Rite-Aid  
3 pharmacists as well; is that right?

4 A. Right, I did, with all pharmacists.

5 Q. Do any specific ones come to mind at  
6 this time?

7 A. Boy, I'm drawing a blank here. No.  
8 I just -- nothing is flashing in the old brain  
9 here.

10 Q. It's been a long day.

11 A. Yeah. I mean, I've been here,  
12 sitting here for a long time. If I really  
13 thought about it, I probably would come up with  
14 a number of names because I had good  
15 relationships, not that I was looking to make  
16 relationships. I was extremely fair with all  
17 chains and independents. I kept them same  
18 level. There was no, oh, I feel sorry for the  
19 independent person or chain. I was fair. And  
20 I let the pharmacists know this, you know.  
21 Your scripts are your bible, your documentation  
22 is part of that bible and I'm the guy that's  
23 going to read it; and if you're not doing it  
24 right, I'm going to be the guy that's going to  
25 tell you you're not doing it right. That's how

1 I -- that's how I preached it religiously.

2 Q. Thank you, Mr. Pavlich. Just a few  
3 more questions.

4 To your recollection, since 2002,  
5 Rite-Aid and Rite-Aid pharmacists generally  
6 cooperated with you during your investigations,  
7 right?

8 A. Generally, yes.

9 Q. And, similarly, they would follow  
10 your recommendations when you gave them?

11 A. If I saw something that I thought  
12 needed my attention or their attention, should  
13 I say, and drew my attention, yes, they would  
14 correct it.

15 Q. And would you agree that Rite-Aid  
16 and Rite-Aid pharmacists actively assisted the  
17 law enforcement with anti-diversion efforts?

18 A. I don't know about all law  
19 enforcement, but I would get calls from  
20 Rite-Aid pharmacists, yes, on various issues  
21 that they would want to tell me about.

22 Q. And earlier today we had spent  
23 considerable time regarding the Overholt  
24 Pharmacy, but you referenced a Rite-Aid store  
25 near Dr. Franklin's practice. Do you recall

1     that testimony?

2             A.       Yeah.    There was a Rite-Aid  
3     pharmacy and a Giant Eagle, I'm pretty  
4     positive.   I know for sure there was a Giant  
5     Eagle up there near Franklin's office and I  
6     know I was in them.

7             Q.       And you mentioned that at some point  
8     the Rite-Aid store (audio distortion) on to what  
9     was happening.   Do you recall that testimony?

10            A.       What?   You broke up.

11            Q.       I believe your testimony was that  
12     they were able to catch on to what was  
13     happening.   Do you recall that?

14            A.       I still can't make out what you're  
15     saying.

16            Q.       Sure.   Catch on.   The Rite --

17            A.       Oh, catch on, is that what you're  
18     saying?

19            Q.       Yes, sir.

20            A.       Yeah.

21            Q.       What did you mean by catch on?

22            A.       Someone would come in with a  
23     prescription at those pharmacies, because I  
24     remember interviewing those pharmacists, and  
25     someone would come in with a Franklin

1 prescription and they had caught on to what was  
2 going on in that office and had called the --  
3 Agent Bodi, that was assigned to that  
4 geographic, about what they're seeing, they're  
5 seeing these prescriptions in high volumes and  
6 combinations of opiates, and they caught on  
7 that this is not a good idea; no matter if the  
8 agent is responding or not, don't fill them.  
9 And that's how they all ended up trickling,  
10 what, 30 miles down the road to Overholt in a  
11 completely different other county because they  
12 weren't going to fill them. I mean, they  
13 filled a few, you know, but they were pretty  
14 much in compliance, the few they filled. They  
15 were like minimal numbers and things like that.  
16 So they caught on.

17 Q. And is it your professional judgment  
18 that these Rite-Aid employees acted properly in  
19 this incident?

20 A. Absolutely.

21 MR. NORTEY: I think, Agent  
22 Pavlich, those are all my questions. I will go  
23 ahead and pass to my colleague, Mr. Zhou.

24 EXAMINATION OF GEORGE P. PAVLICH

25 BY MR. ZHOU:

1           Q.       Good evening, Dr. Pavlich. My name  
2       is Jason Zhou and I represent Walmart in this  
3       matter.

4           MR. APPEL: This is Henry Appel.  
5       I'm going to need at least a few minute break.

6           MR. ZHOU: Okay. Absolutely. You  
7       need five, ten?

8           MR. APPEL: Let's go with five.

9           MR. ZHOU: Sounds good.

10          THE VIDEOGRAPHER: Going off the  
11       record at 7:25. This ends media unit seven.

12                   (Recess had.)

13          THE VIDEOGRAPHER: We are back on  
14       the record at 7:30. This marks the beginning  
15       of media unit number 8.

16       BY MR. ZHOU:

17           Q.       Good morning, Agent Pavlich. My  
18       name is Jason Zhou and I represent Walmart in  
19       this matter, as I mentioned a few moments ago.  
20       I believe I am the last attorney that you'll  
21       have to speak with today so I'll do my best to  
22       try and keep this as short as possible for all  
23       of our sakes.

24                   As with the other pharmacy  
25       Defendants we've talked about today, you've

1 inspected Walmart pharmacies in the course of  
2 your career at the Ohio Board of Pharmacy,  
3 correct?

4 A. I have.

5 Q. And, generally speaking, did you  
6 find in the course of your inspections that  
7 Walmart pharmacies were in compliance with the  
8 board's rules and regulations?

9 A. I, in general, yes, did. If I  
10 didn't, I would have so noted it.

11 Q. And do you recall any of those  
12 Walmart pharmacies causing you any significant  
13 concerns?

14 A. No. I got along pretty well inside  
15 the Walmart pharmacies with their pharmacists  
16 and their supervision.

17 Q. And do you recall ever having any  
18 issues with the computer systems that Walmart  
19 used to dispense prescription medications such  
20 as opioids?

21 A. No. I don't recall any issues with  
22 their system.

23 Q. And how about the computer systems  
24 Walmart used to maintain its prescription  
25 records and data; do you recall any issues with

1     those systems?

2             A.       No, I do not.

3                     MR. WEINBERGER:   Objection.

4             Q.       And were those computer systems that  
5     Walmart pharmacies used approved by the board?

6                     MR. WEINBERGER:   Objection.

7             A.       I'm not the guy that approves it at  
8     the board. I just document it. The board had  
9     their own office approval level person down  
10    there.

11            Q.       Have you ever interacted with  
12    Walmart pharmacists in the course of your  
13    investigation of potential diversion?

14            A.       Oh, yeah.

15            Q.       And I assume you've also interacted  
16    with Walmart pharmacists in the course of your  
17    inspections of Walmart pharmacies?

18            A.       Yes.

19            Q.       What was your general impression of  
20    the Walmart pharmacists that you interacted  
21    with?

22            A.       Very cooperative. I never had a  
23    problem that I can recall at any Walmart  
24    pharmacy with any issues that were needed to be  
25    addressed.

1           Q.       And, generally speaking, did you  
2       find Walmart's pharmacists to be good, diligent  
3       pharmacists?

4           A.       I did.

5           MR. ZHOU:   Thank you, Agent  
6       Pavlich.   That's all the questions I have for  
7       you today.

8           THE WITNESS:   Wow.

9           MR. ZHOU:   I told you I'd try and  
10       keep it brief.

11          THE WITNESS:   You're my hero.

12          THE VIDEOGRAPHER:   So we are done  
13       and we are off the record at 7:33.   And this  
14       concludes today's testimony given by George  
15       Pavlich.   Thank you very much, sir.   The total  
16       number of media units used was eight and will  
17       be retained by Veritext Legal Solutions.   Thank  
18       you.

19          MR. APPEL:   George is going to not  
20       waive and we'll read.

21

22               (Deposition concluded at 7:33 p.m.)

23                       - - - - -

24

25

1 Whereupon, counsel was requested to give  
2 instruction regarding the witness' review of  
3 the transcript pursuant to the Civil Rules.

4  
5 SIGNATURE:

6 Transcript review was requested pursuant to  
7 the applicable Rules of Civil Procedure.

8  
9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction  
11 regarding delivery date of transcript.

## REPORTER'S CERTIFICATE

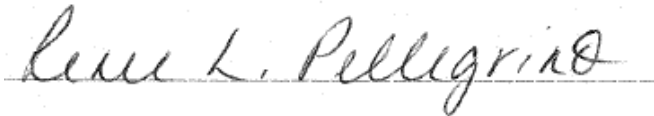
[illegible]

I, Renee L. Pellegrino, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, GEORGE P. PAVLICH, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not a  
2 relative, counsel or attorney for either party,  
3 or otherwise interested in the event of this  
4 action.

5 IN WITNESS WHEREOF, I have hereunto set  
6 my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 17th day of December, 2020.  
8  
9

10  
11   
12

13 Renee L. Pellegrino, Notary Public  
14 within and for the State of Ohio  
15

16 My commission expires October 12, 2025.  
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Veritext Legal Solutions  
1100 Superior Ave  
Suite 1820  
Cleveland, Ohio 44114  
Phone: 216-523-1313

December 17, 2020

To: Henry Appel, Esq.

Case Name: National Prescription Opiate Litigation - Track 3

Veritext Reference Number: 4367745

Witness: George Pavlich                      Deposition Date: 12/14/2020

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to [production-midwest@veritext.com](mailto:production-midwest@veritext.com).

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,  
Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4367745

CASE NAME: National Prescription Opiate Litigation - Track 3

DATE OF DEPOSITION: 12/14/2020

WITNESS' NAME: George Pavlich

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have made no changes to the testimony  
as transcribed by the court reporter.

\_\_\_\_\_  
Date George Pavlich

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

They have read the transcript;  
They signed the foregoing Sworn  
Statement; and  
Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4367745

CASE NAME: National Prescription Opiate Litigation - Track 3

DATE OF DEPOSITION: 12/14/2020

WITNESS' NAME: George Pavlich

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George Pavlich

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST  
ASSIGNMENT NO: 4367745

PAGE/LINE(S) / CHANGE /REASON

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\_\_\_\_\_  
Date George Pavlich  
SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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